

Autumn 2010
二零一零年秋季刊

創刊號焦點

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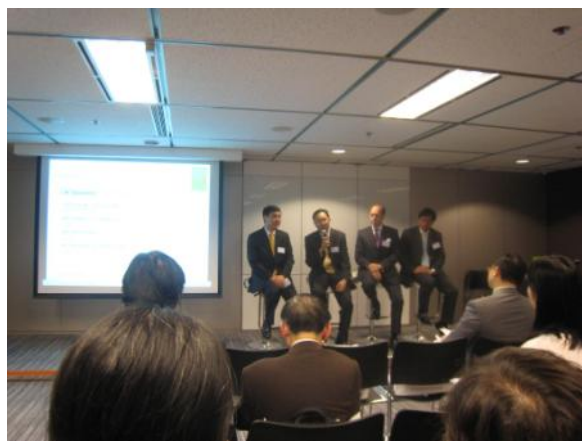
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《Hong Kong Mediation Handbook》新書發佈會 Book Launch of "Hong Kong Mediation Handbook"



澳門世界貿易中心仲裁中心探訪本中心
Visit of WTC Macau Arbitration Center



印尼銀行探訪本中心
Visit of Bank Indonesia



《如何善用調解技巧處理職場關係》CPD 講座
Workplace Mediation Workshop



為民建聯舉辦 40 小時和解證書課程
40 hours mediation training course for The Democratic Alliance for the Betterment and Progress of Hong Kong



2010 周年大會
Annual General Meeting



為民主黨主講《認識和解及和解服務的發展方向》講座
Seminar "Understand Mediation and the Development Directions" for The Democratic Party

近年，香港和解中心因應大眾對調解知識的渴求；爭議人對調解服務需要逐漸增多；以及社會對和(調)解員個人素質及專業能力的要求漸高。理事會特強化轄下的委員會以應對急速變化的社會環境，「出版委員會」便是其中一個肩負重任的委員會。



既然任重道遠，出版委員會首要任務便是招賢納士，強化團隊做好會員通訊為首要任務。

現時團隊有趙家賢，鄭家成，鄭文泰，黎同濟，梁素珍，呂明，伍素娟，蘇文傑，胡寶璧，楊麗明，陳巧文及中心職員王學軒。每位隊員均在其專業或興趣上各具所長，為做好委員會的工作獻出重要的力量。

同時，凡事必須出師有名，否則名不正言不順。故此，我們為中心的會員季刊賦予名字 -- 《和氣》。

《和》者，乃取自君子和而不同的意思，除展現中心推廣和解理念外，更像徵一群來自不同階層、職業、背景但有著同樣理念的人聚集一起，為推廣和解這一共同目標而努力。

《氣》者，意謂藉此會員通訊讓中心的消息，像空氣一樣遊走於各會員間，產生聯繫的效果，更希望通訊的內容能對各位有所裨益，像氧氣一樣為大家醒醒神。

為達到上述目的，我們將《和氣》定為通訊，每期有特定的重點主題。

在創刊號出版前，我們特走訪東莞市第二人民法院陳葵院長，了解調解工作在國內的發展，及與香港和解中心的合作情況。希望讀者藉此多了解國內的調解情況。透過新聞報道，我們引述一些對和解效力的不同意見，希望會員可以從不同角度了解推動和解服務實屬一場「戰役」。(將於下期刊出，敬請留意)

此外，早前城中熱議的天價樓事件，究竟正式的樓宇買賣手續應是怎樣？交易過程中哪些環節容易引起爭議，本期也有專文剖析。另外，本期通訊亦登錄了香港和解中心近期活動及會員持續發展計劃等資訊。◆



編輯室期待著各會員對創刊號的反應，歡迎你們將對《和氣》的期望、意見或批評藉以下電郵(newsletter@mediationcentre.org.hk)向我們反映，我們必會檢討、研究以求改善。

石家俊
出版委員會主席及總編輯



With an increasing interest from the general public in mediation services and demand for quality mediators, the Hong Kong Mediation Centre (HKMC) has stepped up in many areas to enhance our professional standing through the provision of training services and active participation in various mediation schemes. “Publications Committee” is tasked to bring the HKMC to a broader audience and to cultivate an open forum for our members to share their views and experiences.

I am pleased to recruit a group of dedicated members joining the committee -- Andrew Chiu, Peter Cheng, Jeffrey Cheng, Lai Tung Chai, Conita Leung, Rosita Lui, Catherine Ng, Albert So, Bonnie Wu, Ivy Yeung, Jamie Chan and Rick Wong (Staff). Each of them come from different professions and backgrounds, and all are excited to work towards the same goal of bringing you a new look of our quarterly newsletter - researching developments and issues on mediation, bringing you news about the HKMC, and many others.

As you may notice, our newsletter is now named “和氣” in Chinese, pronounced as ‘hé qì’ in Putonghua. “和” is taken from the teaching of Confucius “The Analects” -- “... the gentlemen agrees with others without being an echo...”. This word can simply interpreted as ‘harmony’, the underlying cause of the HKMC mission of promoting mediation in dispute resolutions and building a more harmonious community. Despite diversified profiles of our members, we share the same belief and work hard towards the same goal.

“氣” literally means ‘air’ or ‘oxygen’. We hope this newsletter will spread the news of the Centre like oxygen in the air, bringing our members closer together and you will find new insights from the different topics we selected for you.



As you will read from the Chairman’s Report, our Chairman highlights there are great opportunities ahead for mediation services and we need to get prepared, to participate, and to stay abreast of the developments.

For our first issue of “和氣”, we like to bring you with different views about the merits and limitations of mediation. In addition, we explore in detail a particular industry sector where mediation can be applied for disputes resolution. Further, you can find out more about the recent activities of HKMC, including the CPD requirements.

We also have a good interview with the President Judge Chen Kui of the No.2 Court of Dongguan City sharing the development of mediation in China and the cooperation scheme with the HKMC. Do watch out for the next issue for the story.

I hope you will enjoy reading “和氣”, our new quarterly newsletter. On behalf of my team, I personally look forward to hearing your comments, critics and suggestions, which would help us to bring you more interesting and insightful discussion and sharing. Please email us your comments to newsletter@mediationcentre.org.hk. ◆

Vincent Shek
Chairperson & Editor-in-Chief,
Publications Committee

各位會員：

首先，我想藉此機會感謝大家在過往一年對香港和解中心及和解服務的支持和付出。

面對轉變

自 2009 年 4 月 2 日民事司法制度改革生效，政府司法機構在 2009 年 2 月 12 日頒布及 2010 年 1 月 1 日生效的《實務指示 31－調解》，以及 2010 年 2 月 8 日律政司發表的「調解工作小組報告」，以上的變化經傳媒廣泛報導後，社會上大多數人士對『和解』的含意，已不再陌生，但真正瞭解調解作用及其好處的人仍不多。



2010 年 3 月本中心主辦了『亞洲調解協會周年大會』，邀請了亞洲調解協會的成員出席了是晚盛會。會上林文瀚法官主講了「民事司法改革與調解的發展」，內容精闢，令與會者加深了解政府對民事司法制度改革的方向；4 月舉辦了『調解工作小組報告』及『金融調解中心報告討論會』；另一方面爲了回應政府的諮詢文件，特別安排聽取及收集本中心會員的意見，整理後遞交給政府。

儘管政府現階段對調解未來發展方向的文件還在草擬中，但我深信不論對本地調解服務及本中心而言，前景是明朗和廣闊

的，調解服務將令更多人受惠，影響深遠。

迎接機遇

過去一段時間，本中心積極與政府機構及不同團體商討提供調解服務的可行合作方案，促進及拓展更多爲服務社會大眾的機會，其中包括設立在高等法院大樓的『聯合調解支援熱線辦事處』，爲向政府求助的公眾人士提供服務的機會。

未來發展



2010 年 5 月本中心與民建聯簽訂免費調解服務協議，爲全港 18 區市民提供社區調解服務。預計在短期內，將會增加接收社會公益的個案，進一步實踐本中心服務社會的目標。

未來，香港和解中心將繼續貫徹建設和諧社會的精神，與政府及相關機構緊密合作，推動本地調解服務發展、推廣本地調解服務及繼續與國內外其他相關機構合作交流，爲商界及社會大眾提供高質素的調解服務；增加持續專業培訓專題講座，加強培訓中心會員及提供更多機會與本中心的交流途徑，致力履行我們的目標和使命，推動調解服務至更專業和廣闊的領域。◆



曾炳超
會長

Dear Members,

First of all, I would like to take this opportunity to thank you for your active support to the HKMC in the past year.

Embracing the changes

Following the Civil Justice Reform came into effect on April 2nd 2009 and the issuance of the Practice Direction 31 - Mediation on January 1st 2010, the Department of Justice released in February a "Report of the Working Group on Mediation" to propose areas of changes and actions for promoting the greater use of 'mediation' as an alternative dispute resolution procedure, with an underlying objective to encourage early settlement without going through a trial process.



For us to understand more about the implications of the proposed changes in legal landscape, we had invited The Hon Mr. Justice Lam to deliver a speech on "Civil Justice Reform and the Development of Mediation" during the "Asian Mediation Association Annual General Meeting" held in March 2010. In April, we collected your views and compiled response letters to the two consultation papers - "Report of the Working Group on Mediation" and the "Proposed Establishment of an Investor Education Council and a Financial Dispute Resolution Centre". While the Department of Justice is yet to publish the final guidelines, we are optimistic and confident that mediation services will be in greater demand and be widely used at commercial and community levels.

Challenges and Opportunities

Thanks to the local media's interest and the reporting of the subject recently, the general public is more familiar with the mediation concept itself; however, there is still a lot to do

to fully appreciate the nature, uses and benefits of the mediation. Hence, to position our Centre as a professional mediation body, we have actively discussed opportunities with the government and different associations to develop mediation schemes that can benefit the wider public. I am pleased that "The Joint Mediation Helpline Office" has formally been set up assisting litigants to seek mediation service and referring cases to one of the eight members under the scheme, of which the HKMC is one of them.

Future development

To reach out further to the community, we have entered a pro-bono mediation service agreement in May with the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). We are in better position to actively serve the community (by taking in the cases referred by the 18 district offices of DAB), and to support our members practicing their mediation skills.



Looking ahead, we shall continue promoting mediation through education and training, developing cooperation schemes, and to participate in activities to enhance our representation locally and in China. I encourage you to join our future activities and Continuing Professional Development workshops, not only for the networking but also tapping into each other's mediation experience. Each of us has a role to play to promote mediation services, and together, we build a professional image for ourselves and the HKMC. ◆



Paco Tsang
President

調解同時勿將「訴訟妖魔化」

中環一酒家發生兄弟股權糾紛，高院法官批准提出的清盤呈請。據經濟日報 7 月 22 日報導中指出，爭議一方表明『一直是希望和平解決』，能否成功，拭目以待。



過去一段時間，在香港利用調解得到較圓滿結果的案例甚多，英國、美國、澳洲的經驗顯示，調解可解決約七成的糾紛，減輕法庭的壓力。香港司法機構政務長在 2010 年 3 月 24 日財務委員會特別會議發言中指出『民事司法制度改革的特點之一，是由法庭藉鼓勵爭議各方採用調解來解決糾紛…。於 2010 年 1 月 1 日設立一個「調解資訊中心」，為法庭的訴訟各方提供服務，加強了司法機構在促進及利便使用調解來解決糾紛方面所提供的服務。』

然而，香港大學法律學院助理教授張達明於 2010 年 5 月 10 日在明報發表一篇名為「調解與司法公義」的文章指出：

『調解同時勿將「訴訟妖魔化」。記得在報章上看到有法官引用一爭產案為例以宣揚調解。該案涉及一位隱形富豪留下的 3 億元遺產。長子指父親立下遺囑，將遺產全數作慈善用途，以促進中國的民主發展。但另外兩名子女否定遺囑，要求均分

While advocating mediation, do not demonize proceedings



There was a news reporting potential split between two brothers over the ownership and management issues of a famous restaurant (and the related

遺產，該案前後拖拉了 10 多年，最後只需三兩日調解便成功達至和解，除了約 10% 的遺產捐作慈善用途，其餘主要由子女平分。誠然，調解能快捷有效地幫助死者後人達至各方可接受的和解方案，避免他們對簿公堂。

但筆者認為此案亦突顯了調解的局限，因它沒有根據法律及證據去裁定遺囑是否有效，若死者的真正遺願是用 3 億遺產推動中國的民主，調解後的結果能否彰顯公義，又是否尊重死者的遺願呢？

法官是否應該強調民事司法改革的目標，是讓此類案件日後能夠在合理的時間及訟費內獲得公平的司法裁決，而非標榜調解作為化解官司的萬應靈丹？」◆

編輯組



holding company) in Central. Whilst the eldest brother openly expressed his interest to settle the fights with his younger brother peacefully (according to the Hong Kong Economic Times, dated July 22nd 2010) but he finally reverted to the High Court for approval of winding up the company as an option.

It is yet known if the two brothers will finally reach an agreement that best addresses their needs and interests.

We may ask, ' Can mediation help?'

Encouraged by the successful case settlements through mediation in many countries like the United Kingdom, Canada, Australia and China, the Secretary of Justice of Hong Kong SAR has advocated actively in different forums the need for incorporating mediation as an integral part of dispute resolution mechanism in Hong Kong.

The issuance of the Practice Direction 31, and the set up of the Mediation Information Office in January 1st 2010 are two critical moves to facilitate more effective use of mediation in commercial and community disputes.

However, Cheung Tat-ming, an Assistant Professor at the Department of Professional Legal Education of the Hong Kong University, called for a cautious use of mediation procedure because of the limitations in the application, and the over-promotion on mediation would undermine the rules of law. In his article "Mediation and Justice", reported in Ming Pao Daily, May 10th 2010, Cheung cited an example used by the Judiciary Department to illustrate his point - while advocating mediation, do not demonize proceedings.

The case involved the deceased father left an estate of HK\$300 million to his eldest son with a will to donate all to charities for supporting democratic developments in China. The other two children disagreed and demanded equal splitting of the money.

The legal proceedings of the case went on for more than 10 years and the case was finally settled through mediation, which took only two to three days. The agreement was to set aside 10% of the money for charitable purpose while the rest of estate was equally split among the 3 children.

Cheung argued that on the one hand, mediation did its merits to resolve the dispute efficiently and effectively, the result may have been satisfactory to the two children appealing against the original will; on the other hand, the mediation result may not reflect or respect the true will of the deceased father.

Cheung argued that the objective of the Civil Justice Reform is to ensure legal proceedings are conducted and judicial decisions are made within a reasonable time and at reasonable costs for these types of cases, rather than boasting mediation as a magic cure for all types of litigations. ◆

Editorial Board

樓宇買賣



香港地少人多，相信很多人都想可以擁有一個屬於自己的地方。而購買樓宇物業，從來不是一件輕鬆、簡易的決定。在未論述今期之主題前，先讓我們看看以下數據有什麼啓示？

雖然外在經濟環境及政府有關政策或多或少會影響樓宇買賣的數量，但實質用戶和投資者相繼入市，原因大抵是相信買樓可以保值，長遠價值甚至會繼續攀升，是一個好的投資選擇。

無論是睇樓、問價、放盤，買賣雙方均需要時間處理及尋找專業人士協助完成相關的程序(參見圖 1)。

一個可靠及有經驗的地產代理，可以協助買賣雙方完成部份買賣的前期工作，令整項交易進展順利。當然，要從超過 29,000 位領有執業牌照的地產代理中，揀選一位可信賴及可靠的代表，也不是一件輕鬆事。

即使被委託的地產代理過往記錄優良，口碑好，也不能保證交易過程中無爭議(參見表 1)。當有爭議時，一旦處理不善，不單令交易終止，甚至會引致訴訟。

我們希望透過這篇主題研討，讓會員對樓宇買賣程序有多一點認識，了解過程中可能產生糾紛的地方，為掌握及處理有關物業糾紛的爭議作出適當的準備。

Property Transactions



If we are lucky enough, we all want to have a place of our own and call it 'home'. But, the price tag is not cheap, and indeed, it is a big decision to buy a property in Hong Kong. So, what do the following data mean?

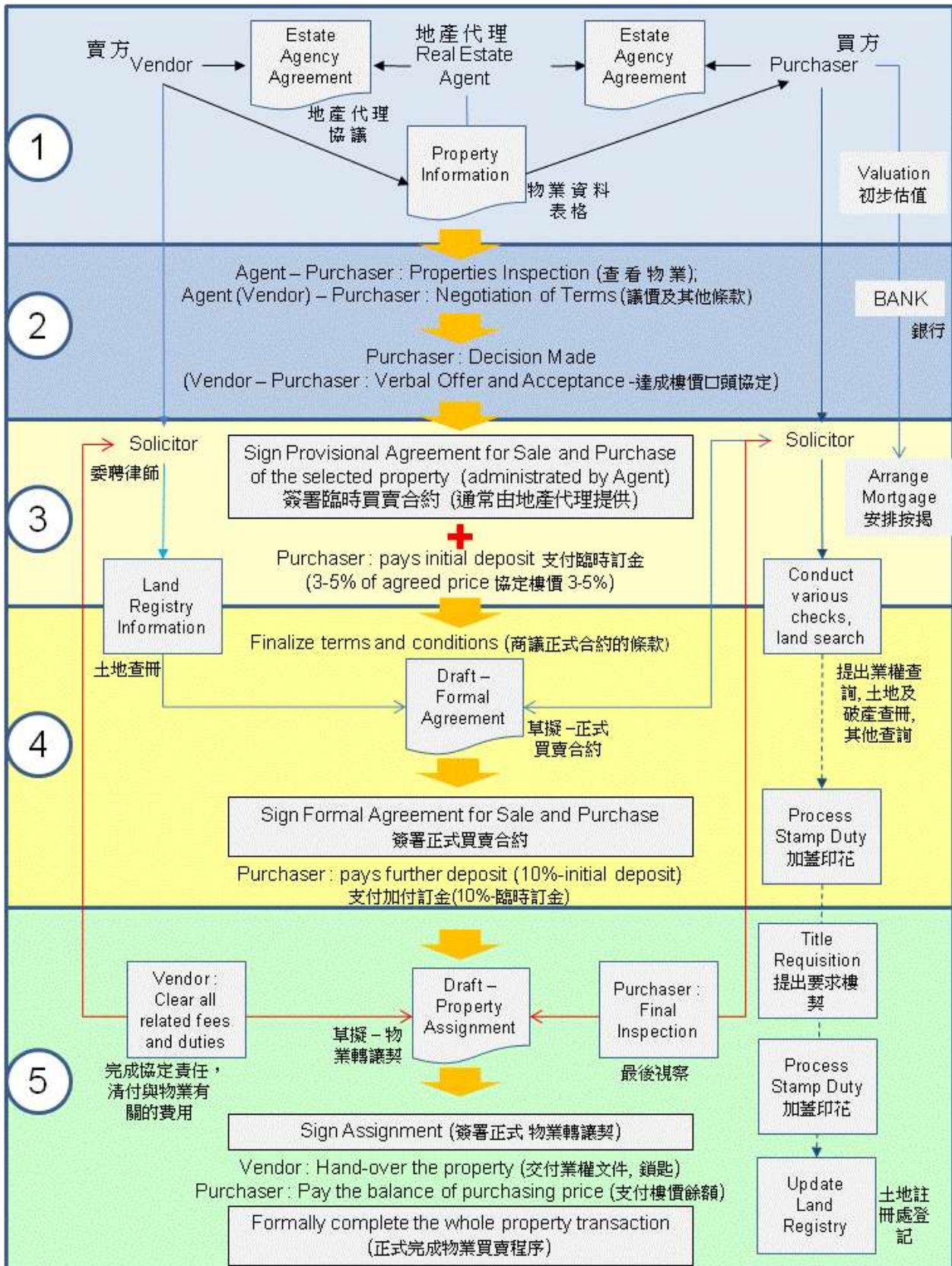


Despite the slowdown of the property market at some stage by either external economic factor or fiscal measures, on the whole, both the users and investors continue to invest in the property market, believing property is a better long term investment and, for some, to make speculative profits.

Whatever the reasons behind property sales or purchases, both the vendor and purchaser need to take time and energy to identify the right property and to engage various parties to assist them throughout the process (see Chart 1). Certainly, an experienced real estate agent would make the transaction as smooth as possible. The challenge of course is finding the right agent from a pool of more than 29,000 licensed real estate agents. Even if the agent has good track record, there is no guarantee that the transaction is hassle-free, before, during or after. Some of those hassles may turn out to be disputes (see Table 1) that either cause the deal to be cancelled or lead to litigations for damages.

We hope this article will help you, as a mediator, to understand a bit more about the subject and to get prepared for when handling related property dispute cases.

圖一：一般樓宇買賣程序
Chart 1 : Typical Process of Property Transaction



通常樓宇買賣程序中會發生那些爭議?

撇除故意誤導或欺騙因素，大多數的爭議是因為物業資料沒有精確地記錄或覆核，或地產代理沒有確認賣方的業權擁有及簽署能力、或向土地註冊處查詢及核對可能出現的任何禁制令（當時有效的產權負擔的詳情）、樓宇結構上任何復原或維修的需要，或買賣合約沒有具體清晰地記錄談判的細節和雙方同意的附帶條件，或買賣雙方簽署合約前並沒有弄清楚或要求律師解釋合約上的條文，以致事後反悔。種種原因都可導致交易終止，甚至進一步爭拗。當然，溝通上不足和失誤，都會造成爭議。



根據地產代理監管局通訊刊物 – “天際” 公佈的投訴/研訊數據，2010 年首季，共有 189 個投訴個案，但是沒有提供分類。我們嘗試利用地產代理監管局過往公佈的投訴/研訊個案，將樓宇買賣過程中可能出現的爭議，按各個交易階段詳列，為會員在準備和解個案工作時，以作參考。

What are the common disputes?

With the exception of intentional frauds or misrepresentation by the vendor/purchaser, or the real estate agent, most of the disputes relate to missing or inaccurate details in the Property Information document, or failures to clear vendor's title on the property, or conduct relevant checks on any encumbrances against the property or document contractual duties, terms and conditions as verbally agreed during the negotiation stage. Some of disputes simply relate to agent commission or mistrust due to poor communication.

Based on the EAA Newsletter - 'Horizons', there were 189 complaint cases in the first quarter of 2010, but there were no reporting of the complaints categories. We try to identify possible disputes at each transaction stage using past cases handled by the EAA. It is best read as a 'reference' when conducting background research for the mediation case.

表一：樓宇買賣過程中可能出現的爭議

Table 1 - Possible Disputes

交易階段	例子	Examples
尋找適合的地產代理「放盤」、「睇樓」 Engagement to sales / purchase a property	程序上 - 物業資料 <ul style="list-style-type: none"> 賣方(業主) - 沒有提供齊全、準確或更新的物業資料，引致買家聲稱被誤導 地產代理 - 沒有向賣方做合理的查詢、覆核資料的準確性和完整性、賣方的物業擁有權、用途限制及有效的產權負擔詳情 賣方(業主)/地產代理 - 沒有清晰註明「睇樓」的安排(時間、鑰匙的保管) 	Procedural - Property Information <ul style="list-style-type: none"> Vendor - fail to provide complete or updated Property Information, which later claimed by Purchaser that the information is misleading Estate Agent - fail to conduct validity and completeness check, esp around vendor's ownership on the property, land usage and any impediments imposed Vendor / Estate Agent - fail to document clearly the property inspection arrangement (e.g. time of inspection, property keys)

交易階段	例子	Examples
	<p>程序上 - 地產代理協議書</p> <ul style="list-style-type: none"> 賣方(業主)/買家 - 由於聘用多於一名地產代理，日後不同意代理佣金的計算週期 / 收費 地產代理 - 沒有清晰解釋地產代理協議書內容及條款；當代理同時代表買賣雙方，有些條款可能涉及利益衝突，例如: 佣金計算 協議書並沒有註明有效時期，或沒有簽署更新的協議書 	<p>Procedural - Estate Agency Agreement</p> <ul style="list-style-type: none"> Vendor / Purchaser - engage more than one real estate agent (or company), later disagree on service period and commission charges Estate Agent - fail to explain clearly the Agreement clauses, and the calculation of commission, esp when the agent represents both vendor and purchaser Agreement not dated or outdated without entering into a new one
<p>「睇樓」，買賣雙方議價和合約條款洽談</p> <p>Property Inspection and Negotiation of the deal</p>	<p>「睇樓」</p> <ul style="list-style-type: none"> 地產代理 - 沒有根據註明「睇樓」的時間，或沒有向賣方(業主)取得批准作特別安排 地產代理 - 沒有向買家解釋物業產權負擔的詳情，及任何附帶條件上的問題 - 例如: 是否須要就物業或所屬建築物的任何部分，就結構上、法令及有關方面的要求，進行修復、修葺或改善 買家 - 沒有向地產代理查詢足夠資料，之後反悔議價或買賣決定 - 例如: 管理費用的支付、有關賣方(業主)應履行的責任、業主現有租客搬遷安排、質疑物業以低於市價出售，是否「鬧鬼」或有嚴重問題 	<p>Property Inspection</p> <ul style="list-style-type: none"> Estate Agent - arrange property inspection outside specific hours and without vendor's approval Estate Agent - fail to advise purchaser the property's special conditions and the implied risks (e.g. reinstatement needs due to structure alternation, building or court order, bank's custody, etc) Purchaser - fail to enquire enough information and later regret on making the offer (e.g. clearance of vendor's liability or any outstanding fees, tenant vacancy arrangement, suspect the property is "haunted" or with quality issue due to low asking pricing)
	<p>買賣雙方議價和合約條款洽談</p> <ul style="list-style-type: none"> 地產代理 - 以不恰當方法催促賣方(業主)/買家作決定，或要求額外佣金作協商的工作 地產代理 - 沒有清晰準確交代議價詳情、或隱瞞真正的問價/出價 賣方(業主)/買家 - 並沒有提供清晰指引、以便地產代理代行洽談 	<p>Negotiation</p> <ul style="list-style-type: none"> Estate Agent - improperly push vendor/purchaser to make decision, or to ask additional commission for facilitating negotiation Estate Agent - fail to convey or conceal real asking/offering price Vendor/Purchaser - fail to provide clear instruction to Agent to negotiate on their behalf

交易階段	例子	Examples
簽署臨時買賣合約 Signing of Provision Sales and Purchase Agreement	簽署合約之前 <ul style="list-style-type: none"> • 地產代理 - 沒有核實買賣雙方在法律上簽署合約的能力和權限，引致悔約、或延誤完成交易 • 地產代理 - 沒有取得書面記錄買賣雙方同意的合約條款或附帶條件，引致之後的衝突 • 賣方(業主)/買家 - 沒有核實合約細節和條款，或遺漏買賣雙方同意/應負的責任 	Before signing the Agreement <ul style="list-style-type: none"> • Estate Agent - fail to check authority or legal capacity of signing parties, resulting in voiding the Agreement or delaying the transaction process • Estate Agent - fail to get written confirmation from vendor / purchaser on negotiated terms • Vendor/Purchaser - fail to verify all negotiated terms being clearly documented in the Agreement
	簽署合約期間／之後 <ul style="list-style-type: none"> • 賣方(業主)/買家 - 買家質疑賣方(業主)沒有能力償還欠銀行的按揭，以致未能如期完成交易 • 地產代理 - 不恰當催促買賣雙方簽署資料不全的臨時買賣合約 	During / After signing the Agreement <ul style="list-style-type: none"> • Purchaser has doubt on owner's ability to repay the loan for redeeming the property title • Estate Agent - urge parties to sign the Provision Agreement without including all details
簽署正式買賣合約 Signing of Formal Sales and Purchase Agreement	<ul style="list-style-type: none"> • 賣方(業主) / 買家 -賣方不同意交易過程中，買家以「確認人」身份簽署合約，同時引入「次買家」 • 地產代理 - 沒有如期回贈現金折扣給予買家（通常適用於一手樓宇，回贈會在完成物業交易及簽署後才兌現） 	<ul style="list-style-type: none"> • Vendor/Purchaser - Vendor disagree on the procedure when the transaction involving 'Confirmor' and a new purchaser as 'sub-purchaser' • Estate Agent - fail to deliver cash incentives promise after the completion of whole process (usually for 1st hand property)
正式完成交易，買賣雙方簽署轉讓契 Signing of Property Assignment	<ul style="list-style-type: none"> • 賣方(業主) - 沒有如期向銀行清付按揭，取回樓契，以致未能如期完成交易 • 賣方(業主) - 沒有根據合約上列明連同樓宇一併轉讓的物件留在物業單位內 • 買家 - 未能如期向銀行申請按揭，或取得貸款支付樓價餘額 	<ul style="list-style-type: none"> • Vendor - fails to redeem the property title at the date of delivery • Vendor - fails to leave the agreed items with the property • Purchaser - unable to secure mortgage in-time for the final payment
其他 Overall	<ul style="list-style-type: none"> • 地產代理 - 沒有申報利益，或與賣方(業主)/買家任何關係，被質疑涉及利益衝突 • 地產代理 / 公司 - 未能提供合理的服務水平，與地產代理協議書上所承諾有很大差別 	<ul style="list-style-type: none"> • Estate Agent - fail to disclose potential conflict of interest or relationship with vendor / purchaser • Estate Agent / company - fail to perform services as agreed

買賣雙方及地產代理可以循什麼途徑解決有關爭議？

最初，雙方或三方會通過直接談判或協商嘗試解決他們之間的爭議，追補未完成責任、支付額外金額作賠償、或口頭道歉，有關商談未必需要律師協助。

但是，假若談判失敗，不但交易終止，嚴重的分歧有時會導致訴訟。

如果賣方/買家質疑地產代理或公司在買賣程序中沒有遵守《地產代理條例》及其附屬法例規範的職責或行為不當，賣方/買家可能會向地產代理監管局提出投訴，紀律委員會會進行調查及審議，或會就個別情況而進行研訊。

投訴一經被證實，紀律委員會會向有關地產代理或公司發布書面警告或譴責、更改或附加條件於有關牌照上、暫時吊銷或撤銷牌照、判處罰款、以及命令有關地產代理或公司支付費用。

然而，地產代理監管局沒有法定權力為賣方/買家提出任何有關金錢上的損失要求，作出賠償指令。假若賣方/買家堅持追討賠償，可以選擇通過法律行動提要求。

考慮到訴訟費用昂貴和耗時，其實可以選擇另類排解方法（由一個曾接受專業訓練的中立第三者進行調解或仲裁），制定出他們的互相同意的解決方案。

在民事司法制度改革下，實務指示 31 - 調解已於 2010 年 1 月 1 日生效。法院藉以鼓勵各方採取另類排解程序，在展開訴訟之前/後，就彼此爭議達成和解，合乎經濟效益。從最近政府加強宣傳調解的資訊來看，我們預見和解服務的需求將會增加。

How can the parties – vendor / purchaser / real estate agent – settle their disputes?

Initially, the parties may try to resolve their disputes through direct discussions and negotiate for settlement, with or without involvement of their legal representatives. They may agree on certain actions in order to complete the transaction. If the negotiation fails, the transaction can be cancelled at the last minute. In some cases, one or both parties may decide to bring their disputes to the court for claims of damage.

If the vendor / purchaser believe the real estate agent or the company has breached the duties as stipulated in the Estate Agents Ordinance (“EAO”), the vendor / purchaser can lodge a complaint with the EAA for investigation and disciplinary sanctions. If the EAA finds the complaint is substantiated, it can issue a warning or fine the agent or the company, or suspend / attach condition / even revoke the agent’s (or the company’s) license should the disciplinary committee finds the case a serious breach of duties. However, the EAA has no statutory power to order any monetary compensation caused by misconduct or breach of duty by the agent / the company. In that case, the complainant (vendor / purchaser) can only file the claim through legal proceedings.

Actually, the parties can consider alternative dispute resolution like mediation and arbitration, which are relatively less costly and time consuming, to work out their mutually agreed solutions. With the PD31-Mediation came into effect on 1 January 2010 and recent publicity on mediation, there will be growth in demand for mediation services.

作為和解員，有什麼準備工作？有哪些要點須要知道？

做足準備工作！

像所有和解個案一樣，在和解會議之前，和解員需要搜集所有相關資料和事實，細閱背景資料，辨認爭拗地方，並制定和解策略。

和解員根據手頭上的資料，分析爭議重點 - 是屬於程序上、實質上（合約條款的細節）或者心理衝突。然後，設定一些假設性問題，用作測試爭議各方的論點和訴求，促使爭議各方探索不同的選擇及和解方案。終究，以上都是我們所熟知的和解技能。要點是適當及零活地應用。

假若爭議雙方聯同代表律師一齊出席，和解員需要留意會議場地安排，確定有足夠空間和額外會議室作單獨會談之用。

最後，如果爭議各方涉及地產代理、賣方和買家，和解會議可能需要比較長時間進行和更加富挑戰性。因此，和解員可以善用議程時間表有效地引導討論，盡力保持各方參與。

和解員從那裡可以了解多些關於樓宇買賣及地產行業的資訊和發展，更好裝備自己處理有關和解個案？

有很多網上資源、書籍和刊物都有談論樓宇買賣、房地產業務、物業管理等等。會員可以瀏覽以下網站，認識樓宇買賣的基本概念，了解地產代理監管局過去如何處理投訴和違規事件。另外，透過本中心 400 多位會員的網絡，大家可以互相分享處理技巧，尋求專業指引。

地產代理監管局

<http://www.eaa.org.hk/welcome.htm>

地產代理監管局是於 1997 年 11 月根據《地產代理條例》而成立的法定機構。其主要職能包括規管香港地產代理的執業、舉辦資格考試、審批個人和公司牌照、處理對持牌人的投訴、以及推動行業培訓和消費者教育。

地產代理監管局網站提供很多行業相關的資料、刊物和過往投訴個案以作參考：

- 刊物 / 專題論集
 - 鍵入“資源中心”
- 投訴個案
 - 鍵入“資源中心”，再鍵入“刊物/小冊子”
- 紀律研訊案例
 - 鍵入“紀律研訊”，可以翻閱事件背景及研訊結果
- 置業須知及其他有關刊物
 - 鍵入“消費權益專頁”

社區法網 -

<http://www.hkcljc.org/ch/index.shtml>

有關樓宇買賣 -

<http://www.hkcljc.org/en/topics/saleAndPurchaseOfProperty/index.shtml>

香港特別行政區律政司撥款資助香港大學中華資訊科技及法律研究中心製作，承辦及運作一個有關法律資訊的雙語網站 - 社區法網，並於 2005 年啓用。普羅大眾可以透過網上免費及快速查閱與日常生活有關的法律事項、香港法律制度的基本資料、法律援助的基本資料及尋找律師的途徑 / 資料。◆

What do mediators need to know when handling property transaction disputes?

Get prepared!

Like any other mediation cases, the mediator needs to ask for relevant documents, and to conduct research on the case background in order to formulate a mediation strategy.



Case analysis is very important because the mediator can evaluate the nature of disputes and to assess if the disputes are procedural, substantive or psychological. Then, the mediator can establish initial hypothesis of the parties' needs and their negotiation strategy, and prepare relevant questions to verify parties' claims and to facilitate parties to explore options from different angles. These are nothing new from what we learn from the mediation training.

Another preparation is about venue arrangement, especially if the parties invite their legal representatives to attend the meeting as well. The meeting room needs to be big enough and the venue must have separate meeting rooms for caucus.

For a tripartite mediation session, ie involving the real estate agent, the vendor and the purchaser, it would take much longer preparation time to research and to read background information. During the mediation session, the mediator needs to remain patient and be attentive to keep all parties engaged at the same level of interest. Hence, the mediator can prepare a tentative time schedule to effectively guide the discussion and to exercise better time management throughout the process.

What are the resources available to help our members better equipped for handling property related cases?



There are a lot of on-line resources and printed materials covering topics like property sales, building management, real estate business, etc. The following web sites provide broad coverage of issues and current topics of property transactions. In addition, members can tap into our 400 plus members' network to seek professional inputs or experience sharing.

Estate Agent Authority (EAA) -

<http://www.eaa.org.hk/welcome.htm>

EAA is a statutory body established in 1997 under the Estate Agents Ordinance. It oversees licensing and regulates practices of estate agency (individuals and companies) in Hong Kong. The web site contains good reading references and collections of past disputes handled by the EAA:

- Publications - *click "Resource"*
- Past cases - *click "Resource" - then "Books and Pamphlets"*
- Inquiry hearings - *click "Inquiry Hearing"*, each with brief background and if the case was settled successfully or not
- Guide to purchasing property and other relevant information - *click "Consumer's Corner"*

Community Legal Information Centre (CLIC)

- <http://www.hkcllc.org/ch/index.shtml>

Real Estate transaction -

<http://www.hkcllc.org/en/topics/saleAndPurchaseOfProperty/index.shtml>



CLIC, funded by the Department of Justice of the HKSAR, was established in 2005 by the China Information Technology and Law Centre (jointly operated by the Faculty of Law and the Department of Computer Science of the University of Hong Kong).

Effectively, it is a web site containing legal topics relevant to daily lives in Hong Kong for

the general public to search and to access in a quick and no-cost manner. It also contains a list of useful web links (basically government departments and agencies) for further information search. ◆

呂明

Rosita Lui

高級「和解員培訓課程」後記 梁素珍

對大部份 2009 - C002 班的學員來說，修讀此課程有如經歷一場不可多得的探索之旅。學員均為不同領域的專業人員，如人力資源、資訊科技、法律、工程、管理顧問、金融、市場推廣、社工。各學員聚首一堂，在這為期四十小時，橫跨五個星期日的課程開始以前，實在感到茫然。



課程開始後，大家才發現要成為一位和解員其實殊不簡單。負責執教的導師均為富有經驗的和解員，課程從不同層面灌輸及授予一個和解員必須具備的知識與技能。學習通過「角色扮演」，強調從實踐中掌握和解技巧。



課程完結後，我們仍然定期見面，互相更新關於和解訓練和實習機會。大家都肯定和解技巧不僅適用於提高工作上的人際溝通和關係，亦可以應用在日常生活上。對我來說，絕對是特別而難忘的發展經驗。◆

Perspective on Advanced Mediation Training, by Conita Leung

Class of C002-2009 was a special learning experience. For most of us, the training course was a new adventure. We come from diverse backgrounds – human resources, IT, legal, construction, management consulting, banking, marketing, social work – but we did not know what to expect from the 40-hour training over five Sundays.

As the course progressed, we quickly realized that it was not easy to be a mediator. The course, delivered by a team of experienced mediators, aimed to provide the training for the participants to develop the necessary mediation skills. Much emphasis was put on the practical application of the skills through role-plays.

The course has brought us together, a group of participants, who are motivated to pass the accreditation examination (a more imminent goal at the time) and to maintain our own network of support in the future.



We still meet regularly to update ourselves any news about mediation training and opportunities.

Looking back, the course has enhanced our interpersonal skills that are applicable to our daily personal and professional lives. It has indeed been a special personal development experience.◆

香港和解中心持續專業發展計劃

推行持續專業發展計劃的目的，是協助本中心的認可和解員，有系統地維持、增進及擴展和解的知識和技巧，並且藉此提升和解員的素質以履行和解的專業職責。

由 2010 年 1 月起，本中心的認可和解員必須於連續兩年內獲取最少 10 個學分(5 個學分從培訓活動取得，5 個學分從專業活動取得)。

培訓活動

培訓活動包括參加以下課題有關的課程、講座、研討會、會議及演講：

- 和解技巧 (溝通、談判、促進及解決問題技巧等)
- 合同法及相關法律培訓
- 衝突管理及其他解決爭端方法

以上課題不能盡錄。本中心將會舉辦持續專業發展活動，協助會員取得計劃的學分。會員也可以透過參加其他專業機構舉辦的活動獲取學分，惟事先須獲得本中心核准。

專業活動

本中心鼓勵會員在和解課程擔任助理導師或導師、在專業評核試中擔任演員或考核員、或在公益和解中擔任和解員，以獲取專業學分。

學分記錄及續會

會員有責任準確地記錄及保存個人的學分記錄。會員可在本中心網站下載學分記錄表。會員須在申請續會時達到所需最低學分要求，及繳交學分記錄；如會員未能符合續會要求，其會籍可能被暫停或終止。

詳情請參閱持續專業發展計劃文件，或到本中心網站閱覽有關內容。

持續專業發展計劃近期動向

會籍及持續專業發展委員會將致力提供優質而實用的培訓活動。第一次的和解經驗分享會已於 8 月 13 日舉辦了。即將舉辦的培訓講座內容包括，談判技巧訓練、提升和解技巧訓練，和訟費計算方法。中心活動將會以電郵方式通知各位會員，敬請留意。如有任何查詢，請電郵至 rickwong@mediationcentre.org.hk 聯絡會籍事務主任王先生。◆

蕭何卓惠

會籍及持續專業發展委員會主席

Continuing Professional Development (CPD) program

The CPD program aims at systematically maintaining, improving and broadening the knowledge and skills as well as continuously developing our panel members' personal qualities necessary for the execution of professional duties throughout their mediation practice.

Starting in January 2010, panel members of HKMC are required to complete a minimum of ten CPD points (5 CPD points from training activities and 5 CPD points from professional activities) over a period of two consecutive years.

Training Activities

Training includes the participation in courses, lectures, seminars, conferences, presentations and workshops in the following disciplines:

- Mediation-related skills (communication, negotiation, facilitation skill, problem-solving techniques, etc)
- Contract law and related legal training
- Conflict management and other dispute resolution mechanisms

The above list may not be exhaustive. HKMC will organize CPD activities in order to facilitate our panel members to meet the CPD requirements. Panel members may also achieve CPD requirements through attending activities organized by other professional bodies (prior approval must be obtained from HKMC).

Professional Activities

Panel members are also encouraged to obtain CPD points by serving as Instructors or Assistant Instructors during mediation courses, Actors or Assessors in mediation role

play examinations as well as Mediators in pro bono cases.

CPD Records and Renewal of Membership

Panel members are responsible for the accurate recording and maintenance of their CPD records. You may download the CPD record form and submit your records via HKMC website. Panel members are required to submit such records showing that they have satisfied CPD requirements when renewing their annual membership. Members who failed to do so may result in termination or suspension of their membership with HKMC.

For details of the CPD program, please visit our website.

CPD Activities Highlight

The Membership and CPD Committee is dedicated to providing our quality and practical training activities. The first experience sharing session was held on 13 August. Upcoming events include negotiation skills training, mediation skills enhancement and talk on legal costs calculation. Watch out for our emails! If you have any queries or suggestions, please feel free to contact our Membership Executive Mr. Rick Wong at rickwong@mediationcentre.org.hk◆

Mrs. Alison Siu
Chairperson of Membership and CPD Committee



成為香港仲裁司學會會員

本中心的監事委員會主席及其中一位創始人 - 蕭詠儀 太平紳士於 2010 年 3 月與香港仲裁司學會達成共識---凡本中心註冊和解員可以申請成為香港仲裁司學會會員，並可出席學會舉辦的專題討論會，及使用“AHKI Arb”稱銜。對本中心註冊和解員確是一大喜訊。

本中心和解員可於香港仲裁司學會網站 (<http://www.hkiarb.org.hk/>) 下載有關申請表格，填妥後連同支票 (HK\$1000)，抬頭寫“香港仲裁司學會”一併交回本中心作初步登記。會籍申請批核事宜，將由香港仲裁司學會全權處理。◆

Associate Membership of the Hong Kong Institute of Arbitrators

We are pleased to form a member introduction scheme with the Hong Kong Institute of Arbitrators (HKI Arb), liaised and facilitated by one of our founders and Chairman of Board of Governors, Ms. Sylvia Siu JP. The registered and paid-up panel members of the HKMC are eligible to apply for the Associate Membership of the HKI Arb, entitling free seminars and use the title “AHKI Arb” on their name cards. Those who are interested can download the application form from the web site (<http://www.hkiarb.org.hk/>), and return the completed application form with a cheque of HK\$1000, payable to “Hong Kong Institute of Arbitrators” to the HKMC for initial registration. Admission is strictly at the discretion of the HKI Arb. ◆

加入土地審裁處有關建築物管理案件之調解員名冊

土地審裁處於 2008 年初，推行了一項建築物管理案件的調解試驗計劃，旨在促進當事人利用調解以處理物業管理及租務上的糾紛。同時，由土地審裁處成立的建築物管理調解統籌主任辦事處，負責接受有關案件。該試驗計劃於較早前取得成效後，已正式落實。有關調解統籌主任辦事處的詳情，可參考此網站 (<http://mediation.judiciary.gov.hk/tc/mcos.html>)。◆

有興趣加入計劃的認可和解員可以到調解統籌主任辦事處的網站下載“參加表格” http://www.judiciary.gov.hk/en/crt_service_s/pphlt/pdf/entry_form_2009.pdf，填妥後交回有關地址。◆

Listing of Accredited Mediators for the Building Management Cases

Lands Tribunal introduced a mediation pilot scheme in early 2008 to encourage the use of mediation to resolve disputes relating to building/property management, and tenant/rental cases. The Building Management Mediation Co-ordinator's Office (BMMCO) was then set up to facilitate the provision of mediation services. Information of the BMMCO can be browsed at this web site -

<http://mediation.judiciary.gov.hk/tc/mcos.html>

Accredited Mediators who want to join this scheme can download the “Entry Form” from this web link -

http://www.judiciary.gov.hk/en/crt_service_s/pphlt/pdf/entry_form_2009.pdf,

and return the completed form to the corresponding address. ◆

加入民建聯「免費調解服務」計劃和解員/觀察者名冊

香港和解中心於本年 5 月與民建聯簽訂免費調解服務協議，為全港 18 區市民提供社區調解服務。

本中心認可和解員，如欲登記參加此計劃，可於本中心網站內下載表格 (Invitation to Join the DAB Mediation Panel)，並把填妥表格交回本中心。◆

Join the DAB Mediation Scheme Panel

HKMC has launched a pro-bono Mediation Scheme in May with the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to provide community mediation services to all 18 districts in Hong Kong. Accredited Mediators who want to be listed on the DAB mediation panel can download the form "Invitation to Join the DAB Mediation Panel" from HKMC web site, and return the completed form to the Centre for further processing. ◆

社區調解場地試驗計劃

調解工作小組轄下的公眾教育及宣傳專責小組於 2009 年 5 月推行一項名為「社區調解場地試驗計劃」。

在港島和九龍各提供一個社區場地，用作社區調解服務之用，主要的服務對象為公益調解個案。九龍的社區調解場中心位於梁顯利油麻地社區中心，而港島的場地位於禮頓山社區會堂。有關資料已上載至本中心網站。◆

Pilot Project on Community Mediation Venues

The Public Education and Publicity Subgroup of the Working Group on Mediation launched a pilot project in May 2009 to provide community venues for the purpose of mediation.

Two venues have been assigned - Henry G. Leong Yaumatei Community Centre (Kowloon) and Leighton Hill Community Hall (Hong Kong). Please visit HKMC website for more information. ◆

香港和解中心場地租用

會員租用本中心的會議室作為和解服務的場地可享有半價優惠。

會員需於租用場地當日的兩星期前，先致電本中心查詢，待確定可供租用後，方可入表申請；並於三個工作天內遞交申請表格及繳交租用款項。有關資料已上載至本中心網站。◆

Meeting Room Booking at the HKMC

Panel members can enjoy a 50% discount in hiring rooms in HKMC centre. Meeting rooms needs to be reserved by phone two weeks in advance and check for availability. Once registration is confirmed, the member needs to return a completed application form and payment within three working days. Please visit HKMC website for more information. ◆

有關調解的判案書

你對香港的調解工作有多少認識呢？是否知道在甚麼情況下法庭會建議當事人嘗試和解，而當中有哪些案例是經和解後成功完結？以下兩個政府司法機構的網站，可以提供相關的資料：

司法機構 - 調解網頁

<http://mediation.judiciary.gov.hk/tc/judgements.html>

法律參考資料系統 - 判案書

<http://legalref.judiciary.gov.hk/lrs/common/ju/judgment.jsp?L1=HC#H3>

(在網頁右上方< 搜尋> 鍵入 “mediation”)



Court Judgments related to Mediation

How much do you know about mediation in Hong Kong? When will the judge refer parties to mediate? There are two useful web links containing brief background of the cases that underwent mediation and some of them were successfully settled.

Hong Kong Judiciary - Mediation web site

<http://mediation.judiciary.gov.hk/en/judgements.html>

Legal reference system - Judgments

<http://legalref.judiciary.gov.hk/lrs/common/ju/judgment.jsp?L1=HC#H3>

(Click on “advanced search” on the top right corner, and search the word “mediation”)

名片印製

認可和解員可申請製作印有本中心標誌的個人名片。名片申請表可於本中心網站內下載。印製費用為 200 張 \$200，300 張 \$250。

會員如已繳費印製名片，後被接納加入一個香港和解中心屬下的委員會，可申請免費重印，並加入委員會的稱銜。



Name Card

HKMC offers name card printing for panel members - HK\$200 for 200 pieces and H\$250 for 300 pieces. Name card order form can be downloaded from the HKMC website. Members who recently joined one of the committees can have their name card re-printed free, and with the committee name included.

英國國立密德薩斯大學碩士學位獎學金

英國國立密德薩斯大學於香港現首次舉辦兩個碩士課程(金融碩士課程及人力資源管理碩士課程)。該大學現提供每課程各兩個獎學金(一半學費)，供本中心會員申請，有關詳情可到該校網站(<http://www.mdxu.hk/mubshk/aboutus.htm>)查閱。

Scholarships from Middlesex University

Middlesex University Business School (UK) has recently launched two master degree programs in Hong Kong and is offering two scholarships (50% of the tuition fee) to each program. Please visit their website for more information.

<http://www.mdxu.hk/mubshk/aboutus.htm>

新書發佈會



由香港和解中心多名資深的和解員共同撰寫並出版的首本和解工作手冊“Hong Kong Mediation Handbook”，於本年 2 月假中環 Sweet & Maxwell 的辦事處舉行了新書發佈會。為祝賀新書出版，香港司法機構多名法官、律政司律師、香港律師會會長、香港大律師公會會長及香港和解中心監事委員會會員、副會長及理事等出席了發佈會。◆

Launch of the Hong Kong Mediation Handbook

“Hong Kong Mediation Handbook” is the first publication in English on Hong Kong’s mediation cases and procedures. Key contributors of the book are accredited mediators of HKMC. The book was officially launched in February this year at the office of Sweet & Maxwell in Central. The event was attended by the judges from Hong Kong Judiciary, lawyers from the Department of Justice, the President of the Hong Kong Law Society, the President of the Hong Kong Bar Association, and members of HKMC Board of Governors, Vice-President and Council Members from the Hong Kong Mediation Centre. ◆

「民事司法改革與調解的發展」晚宴講座

由香港和解中心主辦的「民事司法改革與調解的發展」晚宴講座已於 3 月 26 日晚上圓滿結束。是次盛會邀請到高等法院原訟法庭林文瀚法官為主講嘉賓，約 100 位來自醫護界、社會福利界、法律界及商界等各行各業的和解員出席晚宴講座。

林文瀚法官的講題是「另類解決爭議新文化」，他引用最近頒布的實務指示 31，指出香港司法機構現正全力支持及鼓勵爭議雙方以調解作為處理爭議的方法。會上新加坡調解中心的林長仁法官亦介紹了有關「亞洲調解協會」的近況；亞洲代表均十分欣賞現時香港調解工作的發展。

出席晚宴的嘉賓還有副首席政府律師詹少弘女士、司法機構高級調解事務主任林雪兒女士、香港律師會會長王桂壘先生等；他們十分認同在司法機構與香港和解中心大力推動下，市民大眾增加對調解服務的認識。如果這份熱誠能夠持續，相信使用

調解去解決不同範疇，如醫療、商業、銀行業、市區重建等各方面的爭議會愈趨普遍。◆

Civil Justice Reform and the Development of Mediation in Hong Kong

More than 100 guests from local media, social welfare, legal and commercial sectors, representatives of the Asian Mediation Association (AMA) as well as members from our Centre attended the “Asian Mediation Association Annual General Meeting” on March 26th. We were delighted to have The Hon Mr. Justice Johnson Lam Man-Hon of the Court of First Instance of the High Court as the keynote speaker. In his speech, “Civil Justice Reform and the Development of Mediation”, Mr. Justice Lam brought out the point that the issuance of the Practice Direction - 31 illustrated the commitment of the Department of Justice to support greater use of mediation as an alternative dispute resolution procedure.

Another speaker, President of AMA and representative from the Singapore Mediation Centre, Mr. Judge George Lim, spoke on the alliance scheme and recent developments of the AMA. Mr. Judge Lim shared his excitement of increasing membership of AMA and applauded the development of mediation in Hong Kong.

Other guests included Ms. Sou Chiam, Deputy Principal Government Counsel; Ms. April Lam, Senior Mediation Affairs Officer; and Mr. Huen Wong, President of the Law Society of Hong Kong also shared their confidence in the future growth of the use of mediation services in different sectors of the wider community. ◆

「身心語言程式學」工作坊



本中心會員林譽政先生於 4 月 13 及 20 日分別主持兩堂的「身心語言程式學」工作坊。林先生擁有美國、瑞士及香港的「身心語言程式學」認可導師資格。透過工作坊，林先生分享如何使用身體映視、配合等技巧，與受眾建立融洽和諧的關係，非常適用於和解過程。◆

Neuro-linguistic Programming (NLP) Workshop

Two NLP workshops were organized on April 13th and 20th by one of our panel members, Mr. Alex Lam. Alex is a certified NLP trainer and received the accreditation from the Association of NLP (UK), the International Association of NLP (Switzerland), and the International NLP Academy (HK). During the workshops, Alex shared with the participants the use of mirroring and reflecting skills to create rapport with the target audience, which indeed are very useful for conducting mediation. ◆

「調解工作小組報告及金融調解中心諮詢報告」討論大會

本中心於 4 月 29 日召開了討論會，聽取會員意見，就這兩份對本地調解服務發展和市民利益有著深遠影響的報告，向政府有關當局作出建議。本會建議包括反對即時成立一個統一認可機構，認為須更深入探討此項目，不宜操之過急。在教育推廣方面，本中心認為調解應納入大學法律學士學位課程，及贊成推行以「調解為先」的理念；把「調解服務標誌」張貼在屋邨及機構的大廈內；同時建議政府應更加積極推廣調解服務等。◆

Discussion Forum :“Report of the Working Group on Mediation” and “Proposed Establishment of a Financial Dispute Resolution Centre”

A member discussion forum was held on April 29th to collect feedback on the two reports which would have far-reaching impacts on the future development and application of mediation services in Hong Kong. Members who like to read more of our responses can visit the HKMC web site and download a copy from the home page (About US). ◆

如何善用調解技巧處理職場關係



由本中心曾炳超會長主講職場調解技巧應用工作坊，於 6 月 22 日假香港和解中心舉行。是次工作坊的主要對象為管理人員，內容談及快樂工作的重要元素，和如何有效地處理麻煩同事和管理下屬，涵蓋的範疇包括人際關係及溝通技巧等。與會者反應熱烈，工作坊在一片愉快氣氛中結束。◆

Handling Conflicts at Workplace Workshop

During the workshop held on June 22nd, the President of HKMC, Mr. Paco Tsang emphasized the importance of 'happiness' in building an engaged team. He demonstrated how to use mediation and communication skills to handle conflicts and managed difficult people at in the workplace. Participants also actively shared their views making the whole workshop a delightful experience for all. ◆

聯合調解專線辦事處



聯合調解專線辦事處於 2010 年由八間調解機構包括香港調解會、香港大律師公會、香港律師會、英國仲裁學會(東亞分會)、香港仲裁司學會、香港建築師學會、香港測量師學會和香港和解中心聯合組成。辦事處主要作用是為當事人提供轉介調解服務予各合辦機構。◆

The Joint Mediation Helpline Office

The Joint Mediation Helpline Office (JMHO) has been officially launched in July 2010 with the aim of referring mediation cases to one of the eight organizations under the scheme, namely the Hong Kong Mediation Council, the Hong Kong Bar Association, the Law Society of Hong Kong, the Chartered Institute of Arbitrators (East Asia Branch), the Hong Kong Institute of Arbitrators, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors and the Hong Kong Mediation Centre. ◆

與東莞市第二人民法院舉辦 40 小時和解培訓課程



自去年本中心到東莞第二人民法院舉辦了一個數小時的講座後，本中心導師七月中旬到東莞舉辦了第一班 40 小時的和解證書課程給予當地法官。隨著授課的消息於當地傳出之後，有不少的當地法院及政府機構紛紛聯絡查詢有關課程。有見及此，本中心已因應當地的需要，陸續開班授課。◆

Mediation Training for the No.2 People's Court of Dongguan City

A year after a mediation seminar organized for the judges of the No.2 People's Court of Dongguan City, HKMC was invited to provide a 40-hours mediation training course in July to the local judges, staff and mediators. The course attracted a lot of enquiries and interests to have HKMC to conduct similar training for local government agencies and legal offices. ◆



和解經驗分享系列 (第一期)

會籍及持續專業發展委員會，為著提供一個交流平台給予各會員，藉此交流及分享和解經驗心得，決定定期舉辦和解經驗分享會，邀請中心及其他機構的和解員作為講者，為會員提供一個互動的學習機會。

第一期分享會已於 8 月 13 日舉行，主講者有楊元晶小姐、黎振邦先生及周林輝先生。他們分別講述「三方」和解的特點和注意事項；爭議雙方或其代表律師如何挑選和解員；及如何為和解會議作好準備等。

當晚與會者眾，討論氣氛熱烈，本中心將會陸續舉辦類似分享會，以支持會員持續學習及發展和解技巧。◆

Mediation Experience Sharing Series (Session One)

One best approach to learn is to listen to other's experience. The first sharing session was held on August 13th with awesome participation rate and active discussion from the floor. The three speakers - Ms. Eugenia Yang, Mr. Lai Chun Pong, Kobe, and Mr. Chow Lam Fai, Kenneth - brought us valuable insights into handling tripartite mediation session, critical factors considered by mediation parties and their legal representatives when selecting a mediator, and strategy and preparation required for a 'successful' mediation. You will be sure that more of similar sharing workshops are coming as the Membership & CPD Committee is dedicated to assist our members keeping up with mediation techniques and the latest issues. ◆

歡迎來稿

香港和解中心誠邀各會員，把您在日常生活中應用調解技巧的故事寫下來，並投稿至出版委員會，與我們分享您的經驗；藉此推廣，宣傳及展示調解對企業和社會帶來的好處。您可以把文章直接傳送至以下電子郵箱 newsletter@mediationcentre.org.hk。

CALL FOR ARTICLES

HKMC invites you to share your experiences and stories about mediation practices and of the observed benefits mediation can bring to the business sectors and the community as a whole. You can submit the articles in either English or Chinese via newsletter@mediationcentre.org.hk. The Publications Committee reserves the right to edit and to make appropriate modifications on the wordings of the article.

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