

**2005 ICMA Annual Awards Program**  
**Nomination of Environmental Mediation Program of the City of Upper Arlington, Ohio**  
**For the**  
**ICMA Program Excellence Award - Innovations in Local Government Management**

The Ohio City/County Management Association is pleased to nominate the city of Upper Arlington's Environmental Mediation Program for ICMA Program Excellence recognition as an Innovation in Local Government Management.

The City of Upper Arlington, Ohio is a great place to live and work because of the desire the residents and businesses share in keeping neighborhoods safe and attractive, as well as the City's proactive approach to preserving high community standards. Unfortunately, instances occur where a property may not be maintained to a desirable level or an activity is engaged in that disturbs surrounding neighbors.

The City has adopted a series of ordinances to address property maintenance requirements, zoning issues and nuisances. The Code Compliance Division, within the City's Department of Development, conducts a proactive inspection program and is also available to respond to citizen complaints. The City's goal is to resolve code infractions quickly and easily within acceptable standards. However, some cases are not easily resolved and proceed to court causing further expenses and delayed resolution.

The idea of the Environmental Mediation Program was initiated by the City Attorney's Office when they noticed a high number of property maintenance, zoning and nuisance violations being prosecuted in the courts. The City had other mediation and diversion programs already in place for traffic and criminal offenses. A program addressing these environmental offenses seemed logical. The program is a tool to reduce court cases by determining timeframes and methods to quickly and amicably resolve code violations. It is a program that challenges the conventional

thinking of code enforcement. The program also challenges the organizational structure of the City in that it brings together two staff positions, the Code Compliance Officer and the Criminal Justice Program Administrator, that typically do not interact. Beyond a staff commitment and training in the mediation process, there is no additional technology, training, tools or budget required.

When the Code Compliance Division determines the validity of pursuing mediation, it forwards the code violation(s) to the City Attorney's Office. The Criminal Justice Program Administrator (CJPA) notifies the property owner that they may participate in the voluntary Environmental Mediation Program as an alternative to litigation. If the property owner chooses to accept the offer, the CJPA sets a time and date for mediation. Should the offender fail to respond to the CJPA, the matter is referred to Municipal Court for prosecution.

The CJPA typically acts as the mediator, but in some cases a professional mediator or other party may be utilized. During the mediation hearing, a code compliance officer identifies the violation and educates the property owner on the logic and purpose of the code. All parties discuss why the property has not been brought into compliance and identify any miscommunication that may have occurred. The mediator, after hearing testimony from all parties, identifies the method of compliance and sets a compliance date. A Code Compliance Officer reinspects the property after the agreed upon deadline in order to verify compliance.

The expectation of the program is to assist the public by saving the costs involved in going to court. The program has been a great success. In 2003, the Code Compliance Division investigated 1684 cases, 1656 (98.4%) of which were voluntarily corrected. Of the remaining 28 cases, 14 were forwarded to the Environmental Mediation Program and 14 were forwarded to Franklin County Municipal Court. Thirteen of the mediated cases were successfully corrected

without litigation. This represents a significant cost savings when one looks at the amount of time staff avoided in Court. A typical court case includes an arraignment hearing, a pre-trial hearing, a court hearing and a sentencing hearing. The thirteen cases that were successfully mediated represent 52 separate court appearances that the City Attorney and Code Compliance Officer avoided. Additionally, mediated cases typically are brought into compliance faster than a traditional litigated case, improving the health of the community more rapidly. The effectiveness and efficiency of this program can be seen in the high voluntary compliance rate, quick turn around in processing complaints and time savings.

This program increases the City's capacity to resolve issues without involving the court system. It provides an opportunity for two City departments to work together to solve common community issues. It enhances community relations by approaching 100 percent voluntary compliance. The goal of reducing costs for both parties involved is also achieved. From the City perspective, required Court appearances are reduced while the defendant avoids legal fees, potential penalties and time in Court.

**Innovation Creativity** – The idea of the Environmental Mediation Program grew out of the high number of property maintenance, zoning and nuisance violations being prosecuted. The City Attorney took a cue from other mediation diversion programs already in place for traffic and criminal offenses. The program also challenged the boundaries of ordinary operations by bringing together two staff positions that typically did not interact.

**Quality Management** – This cooperation streamlines the code enforcement process and engages “customers” with the City in a more conciliatory manner.

**Value Proposition** – The program assists the public by saving the costs involved in going to court. The program has been a great success with 93% of mediated cases being voluntarily corrected.

**Building Organizational Capacity** – The program increases the City’s capacity to resolve issues without involving the courts. It provides two City departments the opportunity to work together to solve common community issues. It enhances community relations by approaching 100% voluntary compliance.

**Management Philosophy and Culture** – The choice of mediation over prosecution for citizens reflects a commitment to relationship building.

**Integrated Processes** – By using policies and programs already in place, the City was able to establish and run a successful environmental plan with minimal cost or training.

**Results** – The program truly is a “win-win” for all parties. By streamlining the number of cases that are forwarded to Court, the mediation process saves the City and public time and money by avoiding hearing costs, continuances and attorney fees. Program participants generally see the value of the program and are thankful that their specific matter could be resolved without penalties and without the involvement of Court.

**Real World Advice** - One lesson that Upper Arlington would share is that it is easier to work toward voluntary compliance through mediation than to have a court system force a resolution. Violators involved in the program appreciate being “talked with” instead of “talked to,” resulting in an efficient mediation process.