

Condominium Authority Tribunal

RULES OF PRACTICE

(effective July 1, 2018)

INTRODUCTION

These Rules outline how the Condominium Authority Tribunal (the CAT) operates, and what you need to know or do when you are involved in a dispute that comes to the CAT.

The CAT is part of the Condominium Authority of Ontario. The CAT provides a forum for people to resolve condominium-related disputes through a convenient online system that produces negotiated settlements or legally binding decisions that everyone must follow. The CAT's legal powers come from the [Condominium Act, 1998](#).

CAT is committed to operating in a way that:

- focuses on its users;
- resolves disputes in a way that is fair and convenient; and
- promotes positive condominium communities.

This is who can file a Case with the CAT (called “Applicants” in the Rules):

- an owner of a condominium unit;
- a holder of a mortgage on a condominium unit (mortgagee);
- a buyer of a condominium unit (purchaser); or
- a condominium corporation.

The Tribunal process begins when an Applicant files a Case to ask the Tribunal to resolve a dispute with another person or condominium corporation (called the “Respondent”). This is done through the CAT’s online dispute resolution system (CAT-ODR). The CAT-ODR system is part of the CAT’s website. The Applicant and Respondent are the parties to the case (called the “Users”).

The CAT-ODR system allows everyone to communicate by exchanging offers to settle the Case, and sending and receiving documents and messages.

There are three stages to the CAT’s dispute resolution process:

- Stage 1 - Negotiation: Users discuss ways to settle the dispute.
- Stage 2 - Mediation: A CAT Mediator guides the Users’ discussions and helps them to settle the dispute.
- Stage 3 - Tribunal Decision: A CAT Member considers evidence and arguments from the Users, and makes a final decision.

For more information about the laws and procedures that relate to the CAT, please visit the [Condominium Authority Tribunal website](#).

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A. GENERAL

Purpose

- 1.1 These Rules outline how the Condominium Authority Tribunal (the CAT) operates, and what Users need to know or do when they are involved in a Case at the CAT.

Using These Rules

- 2.1 These Rules should be used in a way that:
- (a) promotes the fair, just and efficient resolution of disputes;
 - (b) recognizes the Users' needs for a clear and easy to use process; this includes Users with no legal representatives;
 - (c) encourages the Users to settle disputes without a hearing;
 - (d) supports fair, focused and efficient processes, that are flexible depending on the complexity of the case is and how much the outcome could affect the Users or others; and
 - (e) ensures that, if a hearing is needed, Users have a reasonable opportunity to be heard by an independent and unbiased decision maker.
- 2.2 These Rules should be read and understood together with the [Statutory Powers Procedure Act](#) and [Condominium Act, 1998](#).

Definitions (French word in brackets)

- 3.1 In these Rules,
- (a) "Application" (requête) means an application to the CAT under section 1.36 of the *Condominium Act, 1998* to resolve a dispute, or under section 1.47 of the Act about a Settlement Agreement that has not been followed.
 - (b) "Applicant" (requérant) is the User who files a Case with the CAT. This could be the owner, mortgage holder or buyer of a condominium unit, or a condominium corporation.
 - (c) "Business day" (jour ouvrable) means a day when offices are open for business and does not include Saturday, Sunday or statutory holidays.
 - (d) "Case" means the CAT's proceeding, under section 1.36 of the *Condominium Act, 1998* to resolve a dispute, or under section 1.47 of the Act about a Settlement Agreement that has not been followed. Case refers to everything that happens from the filing of the Case to a final resolution or decision.

- (e) “Consent Order” means an Order that the CAT makes with the Users’ agreement.
- (f) “Document” (document) means a written document, image, audio recording, or any file with information recorded or stored by any means.
- (g) “Hearing” (audience) means a process where the Users have an opportunity to present evidence and make arguments to support their position in the dispute before a CAT member who will then make a legally binding decision. A hearing may be held through the CAT-ODR system, telephone conference call, videoconference, or other methods.
- (h) “Mediator” (médiateur) means a person who is assigned by the CAT to help Users explore ways to settle the Case without a Hearing.
- (i) “Member” (member) means a person who is appointed to the CAT to mediate and decide Cases.
- (j) “Order” means the part of a CAT decision that all Users must follow.
- (k) “Representative” (représentant) means a person who acts for a User in a Case.
- (l) “Respondent” (défendeur) is the User who is the person or corporation who has the right to respond to the Applicant’s Case.
- (m) “Settlement Agreement” means a written agreement by the Users to resolve all or part of a Case by agreeing on what the User or Users must do resolve the Case.
- (n) “Tribunal” (tribunal), or “CAT” (TASC) means the Condominium Authority Tribunal of the Condominium Authority of Ontario.
- (o) “User” (usager) means a party under the *Condominium Act*. This is an Applicant or Respondent, or any other person or corporation who has the right to participate in the Case.

Tribunal Powers

- 4.1 The CAT may give directions or make Orders to provide a fair, focused and efficient process in each Case.
- 4.2 In each Case, the CAT may decide not to apply a Rule or to change a time limit or other requirement in a Rule.
- 4.3 The CAT may give directions or make Orders after a User has made a request, or without a request from a User.

B. TRIBUNAL CASES

Cases

- 5.1 Unless the CAT allows another method, all Users must use the CAT-ODR system to communicate, and exchange documents and messages.
- 5.2 A Case begins when an Applicant files a Case (makes an Application) with the CAT about a dispute that the CAT has the legal power to hear and decide.

Participation

- 6.1 The purpose of the CAT is to help Users resolve disputes. This requires Users to participate in the Case and make a genuine effort to resolve the dispute.
- 6.2 All Users and Representatives must:
 - a) participate in the way that the CAT directs, including e-mail or other online communications, telephone conference calls, videoconferences and other methods;
 - b) have enough information and instructions to effectively participate in the Case, and have the authority to make agreements or settle any issues;
 - c) act in good faith by being honest and not using the CAT-ODR system or CAT processes improperly;
 - d) not allow anyone to falsely represent themselves as being the User in the CAT-ODR system;
 - e) communicate in a way that is timely, courteous and respectful of everyone; and
 - f) follow the directions and Orders of the Member or Mediator.

Communications and Contact Information

- 7.1 Every User or Representative must give their contact information to the CAT, and to all other Users or Representatives. If their contact information changes, they must update their information in the CAT-ODR system as soon as possible. This contact information includes:
 - a) an e-mail address; and
 - b) a mailing address.
- 7.2 The CAT, the Users, and their Representatives shall communicate with each other by using the CAT-ODR system or by any other method as directed by the CAT.

- 7.3 Every User or Representative must check the CAT-ODR system and their e-mail for communications related to their Case at least once every Business Day, or as often as directed by the CAT.

Joint Cases

- 8.1 Two or more people may file a Case jointly if every joint Applicant agrees to have one Applicant or Representative act for all of the Applicants in the Case.
- 8.2 The CAT may direct that two or more Cases be joined or heard together, or be heard separately, if the CAT believes it would be fair to do so, with or without the Users' agreement.
- 8.3 In Cases that are heard together, evidence presented will be treated as the evidence for each of the Applicants, unless the CAT directs something different.

Representation

- 9.1 A Representative of a User may be:
- a) a lawyer or paralegal licensed by the Law Society of Ontario; or
 - b) a person who is exempt from the Law Society's licensing requirements. This includes a friend or family member who is helping the User without receiving any fee; or a person who is a licensed condominium manager.
- 9.2 A Representative may do whatever the User may do under these Rules, on behalf of that User. A Representative must also follow the CAT's directions or Orders for the Users.
- 9.3 If there is any change in Representation (such as a new Representative, a change in the Representative, or a person has stopped being a Representative), the User and the Representatives must immediately inform the CAT and the other Users and Representatives. All Users and Representatives must use the CAT-ODR system to update this information.
- 9.4 Where there is a change in Representation, the CAT may make directions, Orders or changes to ensure that the process is fair and to prevent unnecessary delays.

Witness Summons

- 10.1 The CAT may issue a summons to a witness at the request of a User or on its own initiative.
- 10.2 When a User requests a summons, they shall give a brief explanation of the information the witness is expected to give that is relevant to the dispute.
- 10.3 A User who asks for a witness summons must follow the instructions in the summons form and deliver a paper copy of the summons to the witness together

with the payment for attendance that is required under the [Rules of Civil Procedure of the Superior Court of Justice](#).

Human Rights Code Needs

- 11.1 All Users, Representatives and witnesses who have needs or barriers related to the *Human Rights Code* have a right to equal access to the CAT's services. They should inform the CAT about their needs as soon as possible.

English or French

- 12.1 Cases may be conducted in English or French, as guided by the CAT's French Language Services Policy.

C. DOCUMENTS AND DISCLOSURE

Disclosure of Details or Documents

- 13.1 The CAT may order a User to give more details, information or documents, if the CAT considers it necessary for a better understanding of the issues in dispute. This is called "disclosure."

Delivery of Electronic Documents

- 14.1 Documents must be in an electronic form and delivered by using the CAT-ODR system, unless the CAT allows or requires delivery by e-mail or another method.
- 14.2 The CAT may require that documents be delivered by a certain time, and in a certain format or quality, or with limits in file size or number of files.
- 14.3 If documents are not in an acceptable format, quality, number or size, the CAT may require the person who delivered those documents to deliver them again in an acceptable way.

Delivery of Paper Documents

- 15.1 If the Rules or the CAT requires a paper document or any other physical object to be delivered, it may be delivered by:
- (a) personal delivery;
 - (b) regular mail; or
 - (c) any other way that the CAT directs.
- 15.2 Where the User or CAT delivers a paper document or physical object, that document or object is considered to be received at the following times:
- (a) if delivered by mail, five days after the postmark date on the envelope; or
 - (b) if personally delivered, at the time when it is handed over directly to the person.

- 15.3 The CAT may require the sender of a paper document or physical object to prove its delivery by giving delivery details as the CAT requires.

D. PUBLIC ACCESS TO CASES AND RECORDS

Public Access

- 16.1 In addition to these Rules and any direction or Order of the CAT, the CAT will also be guided by the Access and Privacy Policy of the Condominium Authority of Ontario.
- 16.2 All communications and documents that are part of Stage 1 - Negotiation or Stage 2 - Mediation are private and confidential. Settlement communications or documents that were given to try to reach a Settlement Agreement must not be made public or used in Stage 3 - Tribunal Decision, unless the Users agree or the CAT allows it.
- 16.3 The public may have reasonable access to the public parts of Stage 3 - Tribunal Decision, including documents and messages that are on the CAT-ODR system. This public access may be delayed until after the Case is closed.
- 16.4 A User may ask that the CAT close all or part of a Case to the public, or restrict public access to documents or communications.
- 16.5 The CAT may take any steps and make any directions or Orders that are needed to protect the confidentiality of any parts of the Case. This may include using initials for names or any other action needed to anonymize a Case. The CAT may do this after a request from a User or on its own initiative.

E. THREE-STAGE PROCESS

Three Stages

- 17.1 The CAT-ODR system involves three stages:

Stage 1 – NEGOTIATION: Users are provided with a forum and tools to help resolve the dispute on their own.

In this first stage, Users exchange settlement offers, documents and messages to try to settle the dispute. No CAT staff or Member is involved. If Users agree to settle the dispute, the CAT-ODR system will automatically create a Settlement Agreement that sets out all the terms that they agreed upon. If the Users do not agree to settle the dispute, the Applicant can choose to pay a fee and move the Case to Stage 2 - Mediation.

Stage 2 – MEDIATION: A Mediator guides the Users' discussions and helps them to resolve the dispute.

In this stage, the CAT assigns a Mediator to work with the Users to find ways to resolve the dispute. If Users agree to settle the dispute at this stage, the CAT-ODR system will automatically create a Settlement Agreement form or a Consent Order. If they do not settle the Case, the Mediator will discuss with the Users how to prepare for a hearing in Stage 3 - Tribunal Decision. If the Users do not agree to settle the dispute, the Applicant can choose to pay a fee and move the Case to Stage 3 - Tribunal Decision.

Stage 3 – Tribunal Decision: A Member considers evidence and arguments from the Users and makes a final decision about the Case.

In this stage, the CAT assigns a Member to consider and decide the Case. The Member uses the CAT-ODR system to manage the written hearing by creating and scheduling different events for Users to exchange messages and documents. This gives each User the chance to give evidence and make arguments to the Member. The Member applies the law and makes a final and legally binding decision that all Users must follow.

Early Dismissal

18.1 The law allows the CAT to dismiss a Case before it goes through the CAT's stages or processes in certain situations, such as:

- (a) a Case about issues that are so minor that it would be unfair to make the Respondent go through the CAT process to respond to the Applicant's concerns;
- (b) a Case that the CAT has no legal power to hear or decide;
- (c) the Applicant using the CAT for an improper purpose;
- (d) the Applicant has filed documents with the CAT that the Applicant knew or ought to have known contain false or misleading information; or
- (e) the CAT has found that the Applicant has abandoned their Case because the Applicant no longer wants to continue with the Case or is no longer actively involved in the Case.

F. FILING A CASE

Filing a Case with the CAT

19.1 The Applicant may file a Case with the CAT only through the CAT-ODR system, unless the CAT allows for another method.

- 19.2 The CAT may review a Case to identify possible problems to the Applicant. The CAT will inform the Applicant what they can do to try to fix any problems. These problems may include the Case being:
- a) incomplete;
 - b) late; or
 - c) about a dispute that the CAT may have no legal power to hear or decide.
- 19.3 If the Case has possible problems that are not fixed, the CAT may inform the Applicant in writing that the Case will not be allowed to continue, with reasons why. The Applicant will have a chance to give a written response about why they should be allowed to continue with their Case. Then the CAT will decide to either dismiss the Case, or to let it continue.
- 19.4 When the Case is allowed to continue, the CAT will give the Applicant a Notice of Application with instructions about how to deliver this Notice to the Respondent. The Notice of Application has information about how the Respondent can join the CAT-ODR system to participate in the Case.

Responding to an Application

- 20.1 The Respondent named in the Notice of Application must respond by using the CAT-ODR system, unless the CAT allows for another method.

Orders in the Absence of the Respondent

- 21.1 If the Respondent does not respond to the Notice of Application or any further notices that the CAT has directed the Applicant to deliver to the Respondent, the Applicant may ask the Tribunal to make an Order without hearing further from the Respondent.
- 21.2 The Respondent is considered to have not responded if:
- a) a paper copy of the Notice of Application was delivered using one of the delivery methods in Rule 15.1, and
 - b) the Respondent did not complete the actions required in the Notice within the required time limits.

G. STAGE 1 – NEGOTIATION

Negotiation

- 22.1 During this stage, the Users will use the CAT-ODR system to negotiate, by exchanging settlement offers, documents and messages. Users will negotiate without assistance from the CAT, but User can notify the CAT if another User is behaving improperly or not following a CAT direction or Order.

Ending Stage 1

- 23.1 The CAT will end Stage 1 and close the Case if:
- a) the Users have made a Settlement Agreement in the CAT-ODR system that resolves all the issues in the Case;
 - b) the Applicant has properly informed the CAT that they are withdrawing their Case, or that the Users have settled the Case; or
 - c) when there has been no settlement offer made by any User in the CAT-ODR system for more than 30 days.
- 23.2 The Applicant may move from Stage 1 to Stage 2 by paying the Stage 2 Fee.

H. STAGE 2 – MEDIATION

Mediation

- 24.1 The CAT may assign a Member or any other person to be the Mediator who will manage the Stage 2 process.
- 24.2 The Mediator may give directions to ensure that the mediation is properly conducted, and that Users have enough information and understanding of the issues to properly agree to any settlement. A Mediator who is a Member may make Orders that Users must follow.
- 24.3 The Mediator may sometimes communicate confidentially with only one User. If the Mediator does this, the Mediator will inform the other Users about the one-on-one communication, without saying what was discussed.

Ending Stage 2

- 25.1 If the Mediator believes that the Users are unlikely to agree to settle the Case, the Mediator will discuss with the Users their readiness for Stage 3 - Tribunal Decision. This includes:
- a) what facts they can agree on;
 - b) what witnesses and evidence they want to use;
 - c) how to simplify the issues;
 - d) anything else that may help the Stage 3 - Tribunal Decision process be fair, focused and efficient.
- 25.2 The Mediator may also end Stage 2 if the Mediator believes that a User is behaving improperly or not following the directions or Orders of the CAT.

- 25.3 The Applicant may pay the Stage 3 fee and move the Case from Stage 2 to Stage 3 when the Mediator decides that the Applicant can move to Stage 3 - Tribunal Decision.
- 25.4 The CAT will end Stage 2 and close the Case if:
- a) the Users have made a Settlement Agreement in the CAT-ODR system that resolves the dispute;
 - b) the Users agree to the CAT making a Consent Order that ends the Case;
 - c) the Applicant has properly informed the CAT that they are withdrawing their Case, or that the Users have settled the Case; or
 - d) the Mediator finds that the Applicant has abandoned the Case because there has been no discussion between the Users for more than 30 days, or the Applicant has not paid the Stage 3 fee even though they have had more than 30 days to do this.

Stage 2 Summary and Order

- 26.1 If the Applicant has paid the fee for Stage 3, the Mediator will prepare a Stage 2 Summary and Order. This document will be given to the Users and used by the Member who hears and decides the Case in Stage 3. This document will:
- (a) summarize the issues that the CAT should decide. It will also identify if any issues have been resolved. The summary will respect the confidentiality of the Users' communications and settlement offers in Stage 2; and
 - (b) include any Orders about the procedures the Users must follow to make Stage 3 fair, focused and efficient.

I. STAGE 3 – TRIBUNAL DECISION

Assignment of Members

- 27.1 The Chair or the Chair's delegate shall assign one or more CAT Members to hear and decide a Case in Stage 3 - Tribunal Decision.
- 27.2 If two or more Members are assigned to hear and decide a Case in Stage 3, one of the Members shall be assigned as the Presiding Member, and this Member will be responsible for managing the Stage 3 process.
- 27.3 If three Members are assigned to hear and decide a Case in Stage 3, the decision of a majority of Members shall be the Decision of the CAT. If two Members are deciding a Case and they do not agree on a decision, the decision of the Presiding Member shall be the decision of the CAT.

Disclosure of Documents, Information and Evidence

- 28.1 A User must use the CAT-ODR system to deliver documents, information and evidence to the other Users at the beginning of Stage 3. This includes:
- (a) all documents that the User will use as evidence in Stage 3; and
 - (b) a list of witnesses whom the User wants to give evidence in Stage 3, together with a short summary of each witness's evidence.
- 28.2 Users must follow the CAT's Orders or directions about what, how and when any documents, information or evidence must be delivered.
- 28.3 If a User fails to follow these Rules or the CAT's Orders or directions about disclosure of documents, information, or evidence, that User may not use that document or information or call the witnesses to give evidence, unless the CAT otherwise allows.

Witnesses

- 29.1 Unless the CAT allows another method, witnesses must give their evidence in writing. The CAT will give directions about:
- (a) how and when the witnesses may give evidence;
 - (b) how and when Users may disagree with any evidence from another User's witness; and
 - (c) how and when a witness may receive or answer questions from a User or the CAT.
- 29.2 A User must say how they want their witness to give evidence. For example, this may be by using the CAT-ODR system, e-mail, telephone, videoconference, or any other method. The User must also deliver a brief summary of the evidence that their witness is expected to give.
- 29.3 The CAT will allow the other Users to respond about how a User's witness may give their evidence and be questioned by the other Users and the CAT.
- 29.4 If the CAT allows a User's witness to give their evidence in a written document, or an audio or video recording, the CAT may accept as true any facts in that witness's evidence that the other Users have not clearly disagreed with.

Correcting and Clarifying Orders and Decisions

- 30.1 The CAT may at any time correct a typographical error, a calculation error, or similar error in its Order or decision.
- 30.2 The CAT may at any time make minor changes to an Order or decision to clarify wording that is unclear or incorrectly stated.

30.3 A User has 30 days after receiving the Order or decision to ask the CAT to make this kind of minor correction or clarification. The User must deliver their request to the other Users and the CAT.

Reopening a Case After a User Failed to Participate

31.1 The CAT may review its final Order or decision and reopen all or part of a Case if the decision was made after a User:

- (a) failed to appear or participate in all or part of a Case; or
- (b) failed to respond to a request or communication from the CAT.

31.2 A User has 20 days after receiving the final Order or decision to ask the CAT to review a decision under this Rule. The User must deliver their request to the CAT. The CAT-ODR system will notify other Users about the request. The User's request must give details about:

- (a) why the User failed to appear or participate, or failed to respond; and
- (b) why it is unfair for the User if the Case is not reopened.

31.3 The CAT may respond to the request for review without hearing from the Users, and the CAT does not have to give any reasons for its response.

J. COSTS

Recovery of Fees and Expenses

32.1 The CAT may order a User to pay to another User or to the CAT any reasonable expenses or other costs related to the use of the CAT, including:

- (a) any fees paid to the CAT by the other User;
- (b) the other User's expenses or other costs that were directly related to this other User's participation in the Case; and
- (c) the other User's or the CAT's expenses or other costs that were directly related to a User's behaviour during the Case that was unreasonable or for an improper purpose, or that caused an unreasonable delay.

Legal Fees Generally Not Recoverable

33.1 The CAT will not order one User to pay to another User any fees charged by that User's lawyer or paralegal, unless there are exceptional reasons.

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