



## **ACCESS AND PRIVACY POLICY**

*(Approved by the CAO Board of Directors on January 24, 2018)*

### **1.0 Purpose**

The purpose of this Policy is to set out how the Condominium Authority of Ontario, including the Condominium Authority Tribunal, will effectively protect, and provide access to, personal information and records held by it.

### **2.0 Definitions**

- (a) The “Act” refers to the *Condominium Act, 1998*.
- (b) “Authority” or “CAO” means the Condominium Authority of Ontario and the Condominium Authority Tribunal.
- (c) “Delegated Provisions” means the provisions of the Act specified by the Lieutenant Governor in Council in regulation, and of which the administration is delegated to the CAO in accordance with the Act.
- (d) “Non-Statutory Business” means other activities carried out in accordance with the CAO’s objects or purposes that are outside of its Statutory Mandate.
- (e) “Personal information” means any information about a recognizable individual that is recorded in any form. This does not include the name, title, contact information or designation of an individual that identifies the individual in a business, professional or official capacity.
- (f) “Record” means any record of information, however recorded, whether in printed form, film, by electronic means or otherwise in the custody and control of the CAO for the fulfillment of the Statutory Mandate.
- (g) “Statutory Mandate” means the exercise of the authority delegated to the CAO pursuant to the Act, which is comprised of:

- i) Part I.2 of the Act; and

ii) The Delegated Provisions

but does not include Non-Statutory Business ventures.

- (h) “Tribunal” or “CAT” means the Condominium Authority Tribunal.

## **3.0 Collection, Use and Disclosure of Personal Information**

### **3.1 Collecting Personal Information**

- (a) The CAO will collect personal information only where it is required for its legitimate purposes to fulfill the Statutory Mandate. Personal information shall be collected only by lawful means. The CAT may require the collection of personal information or it may receive personal information as part of any proceeding before the CAT.
- (b) Subject to subsection 3.1(c), personal information will be collected with written consent directly from the person to whom it relates, not from a third party, and the purpose of the collection and how personal information will be used will be explained at or before the time the information is collected.
- (c) Subsection 3.1(b) shall not apply to information that is being collected as part of a proceeding before the CAT or a response to a complaint.

### **3.2 Using and Disclosing Personal Information**

- (a) The CAO must have the written consent of the individual to whom the personal information relates before it can be used, or disclosed to a third party for a purpose other than that for which it was collected, except as set out in subsection 3.2(c).
- (b) Third party access to personal information should only be provided where it can be demonstrated that the third party has put in place means to protect personal information which are comparable to those of the CAO. If personal information is made available to a third party on an ongoing basis, any revised information will be regularly provided. Parties, representatives and other authorized participants in a CAT proceeding are

not considered to be third parties with respect to the personal information provided or required in a CAT proceeding.

- (c) Personal information that has been collected by the CAO in accordance with this Policy may be used or disclosed without the consent of the individual only in the following circumstances:
  - i) If the information is necessary to respond to an emergency;
  - ii) If the information is reasonably required for the CAO to fulfill the Statutory Mandate; or
  - iii) If the information is required for the CAT to perform its dispute resolution functions under any Act or Regulations, the CAT's Rules, or a CAT order.

### 3.3 Protecting Personal Information

The CAO recognizes the importance of protecting the personal information and records in its care. To prevent the unauthorized disclosure, use, copying or modification of personal information in the custody and under the control of the CAO, access to such information shall be restricted using appropriate security mechanisms. The CAO will:

- (a) Take reasonable steps to prevent theft, loss or misuse of personal information and records, and protect them from unauthorized access, modification or destruction;
- (b) Implement physical and organizational protections for paper records;
- (c) Enable passwords and other technological protections for electronic records;
- (d) Take reasonable steps to ensure that personal information held by the CAO is accurate and up-to-date, based upon the information provided to it; and
- (e) Ensure that all employees, the Board of Directors, the CAT members, and all consultants or contract workers employed by the CAO have received adequate training to comply with this Policy.

## 4.0 Retention and Destruction of Personal Information and Records

### 4.1 Retention of Personal Information and Records

The CAO will retain information for as long as is necessary to fulfill the purpose for which it was collected or for its use in accordance with this Policy, and for 12 months thereafter in order to provide an opportunity for the individual to access their own personal information. A record of personal information may be retained beyond this time period in the following circumstances:

- i) Another law requires or authorizes the retention;
- ii) The record is reasonably required for fulfillment of the Statutory Mandate;  
or
- iii) The record is transferred to storage or archives for historical research or permanent preservation, provided it is made anonymous of personal information as described in Section 4.2.

Personal information and records that are part of a CAT order or decision may be retained indefinitely.

### 4.2 Destruction of Personal Information and Records

Any records that are retained for historical research or permanent preservation must be made anonymous.

For all records that have fulfilled the purposes for which they were collected, have fulfilled any further uses in accordance with this Policy, and are not to be retained, the record will be destroyed in a manner that is appropriate given its medium:

- i) A paper record of personal information, and all copies, shall be shredded before it is destroyed.
- ii) Electronic data containing personal information is to be deleted from hardware that hosted the data.
- iii) Before hardware that hosted electronic data is discarded or destroyed, all electronic data containing personal information is to be deleted.

## 5.0 Access to Information

### 5.1 Accessing Own Personal Information

The CAO will confirm the existence of, and provide an individual access to, their own personal information held by the CAO, except where such access and disclosure would:

- i) Constitute an unjustified invasion of another individual's personal privacy, unless that individual consents to the release and disclosure of the information;
- ii) Violate a legally recognized privilege, including the deliberative privilege of the CAT (which includes notes and draft decisions or reasons of a CAT member);
- iii) Violate a CAT order;
- iv) Violate intellectual property law; or
- v) Violate provisions of any applicable act, regulation or CAT Rule.

To request such access, the individual must submit a request in writing to the Access and Privacy Officer of the CAO. The CAO will, in the normal course, respond to such a request within 5 business days and at no cost, unless such response involves the review of a large number of records or meeting the request would unreasonably interfere with the operations of the CAO or the CAT.

### 5.2 Corrections, Updates or Completeness of Personal Information

Where an individual disagrees with the accuracy of their personal information on file with the CAO, the individual has the right to challenge its accuracy and demand its amendment.

Following the confirmation of proof of identity and upon request of any corrections or updates by an individual, the CAO shall amend the individual's personal information on file with the CAO to reflect either:

- i) the requested change; or
- ii) if requested by the individual, a statement of disagreement if an amendment was requested but not made, to be attached to the information and the individual's file, which must also be transmitted to any third parties with access to the information.

Amendments to the personal information or records shall be made as soon as

practicable, but no later than 30 days from the time that the CAO makes the determination to amend the personal information or record.

### **5.3 Public Access to Records**

The CAO will provide public access to records in its possession unless the release of information would:

- i) Constitute an unjustified invasion of personal privacy;
- ii) Violate a legally recognized privilege, including the deliberative secrecy of the CAT (which includes notes and draft decisions or reasons of a CAT member);
- iii) Violate a CAT order;
- iv) Reasonably be expected to threaten the life, health or security of an individual;
- v) Involve information that is the substance of deliberations by the CAO's Board of Directors and its committees, including but not limited to agenda, minutes, policy options and analysis, internal advice, proprietary information and advice to government;
- vi) Involve commercial, proprietary, technical or financial information related to an individual or commercial enterprise who has supplied the records to the CAO in confidence, if disclosure would result in undue loss or gain, prejudice a competitive position, or interfere with contractual or other negotiations of such individual or commercial enterprise; or
- vii) Violate provisions of the Act, the regulations made thereunder or any CAT Rule.

To request such access, a member of the public must submit a request in writing to the Access and Privacy Officer of the CAO. The CAO will, in the normal course, respond to such a request within 5 business days and at no cost, unless such response involves the review of a large number of records or meeting the request would unreasonably interfere with the operations of the CAO, including any proceeding before the CAT.

### **5.4 Remedies**

If an individual who requested access to information is not satisfied with the CAO's response, the requester may ask the CAO to review the decision. This request for review must be in writing, addressed to the Registrar (or in the absence of a Registrar, the Executive Director), and must describe what aspect of the response the requester wishes to have reviewed. A final decision on the request will be provided within 30 days

of receipt of the review request.

If the CAO is unable to respond within 30 days, the CAO shall advise the requester of the date a response can be expected.

## **6.0 Administration**

The CAO will publish in electronic format all policies, practices, standards, codes and brochures pertaining to its management of personal information.

### **6.1 Privacy Officer**

The CAO shall identify an Access and Privacy Officer who is responsible for the CAO's compliance with this Policy and for responding to requests for access to information. The name and contact information for this individual will be made available on the CAO's website. The CAO will investigate all complaints relating to this access and privacy Policy and will act accordingly based on the results of the investigation. Questions or comments on this Policy may be addressed to the Access and Privacy Officer.

### **6.2 Review of this Policy**

This Policy will be reviewed at regular intervals by the senior officers or Board of Directors of the CAO to ensure that it continues to serve its intended purpose. This may include reviewing:

- i) Procedures in place to protect personal information;
- ii) The effectiveness of procedures for handling complaints relating to this Policy;
- iii) The effectiveness of procedures for addressing information requests; and
- iv) Any other amendments that should be made to improve the operation of this Policy and the protection of personal information.

The CAO will submit any amendments to this Access and Privacy Policy to the Minister of Government and Consumer Services for approval.