

CONDOMINIUM AUTHORITY TRIBUNAL MEMBER CODE OF CONDUCT

April 2019

Introduction

1. The Code of Conduct (the “Code”) for the Condominium Authority Tribunal (“CAT”) provides guidance on the appropriate standards of conduct for CAT Members. It addresses the principles of good conduct and collegial responsibility expected of all Members appointed to CAT.
2. The CAT is committed to ensuring that its Members adhere to its core values in all its Proceedings and that Users receive a fair process and impartial decision.

Definitions

3. The following terms apply to the Code:

“CAO” means the Condominium Authority of Ontario.

“CAT” means the Condominium Authority Tribunal.

“Member” means individuals appointed to the Condominium Authority Tribunal and includes the Chair, Vice-chairs, and Members.

“Proceedings” in the Code includes:

- a) adjudicating a case;
- b) mediating a case;
- c) assigning a case to a Member;
- d) participating in discussions of an ongoing case or issue before or concerning the CAT; and
- e) making case management decisions or recommendations.

Application

4. The Code sets out the standard of conduct governing the professional and ethical responsibilities of Members throughout their term of appointment.
5. The principles set out in the Code are founded on the professional and ethical values of fairness, impartiality, integrity, respect for diversity and public service - values which uphold the public trust. The Code addresses the principles of good conduct, collegial responsibility and personal behaviour expected of Members. These principles form the standards which Members must for uphold by acting in an

ethical and professional manner. Compliance with the Code will be incorporated into performance discussions with members.

6. The Code must be read alongside the following documents:
 - [The Memorandum of Understanding \(MOU\) between the CAT and the CAO](#)
 - [The CAT Member Conflict of Interest Policy](#)
 - [The CAO Access & Privacy Policy](#)
 - [CAO Public Complaints policy](#)
7. The Code constitutes an important element of the CAT Ethical Framework within which CAT Members operate.
8. The Code is intended to ensure that Members behave towards members of the public, CAT staff and other Members in a courteous, professional and respectful manner.
9. The Code is intended to assist Members by establishing appropriate standards of conduct in an administrative justice and public service environment. However, the Code cannot anticipate all possible circumstances in which Members may be called upon to exercise sound judgment. It remains the responsibility of Members to consider the appropriate standard and to conduct themselves in an ethical and professional manner. Members should seek direction/clarification from the CAT Chair when uncertain about the appropriate standard to follow.
10. This Code may be amended from time to time to reflect the developing experience of CAT.

Principles of Conduct

Compliance with Laws

11. Members shall act in accordance with all applicable laws and with their spirit and intent.
12. Members shall not commit or condone any unethical, illegal or discriminatory act, or counsel or encourage another to do so.

Fairness

13. Members must comply with the principles of procedural fairness and natural justice and act impartially in the conduct of Proceedings.
14. Members should ensure that Proceedings are conducted fairly in a manner that is transparent, understandable, and subject to rules or legislative requirements designed to protect confidentiality.

15. Members must maintain the integrity of the mediation and tribunal decision processes by ensuring that proceedings are conducted in a manner that is transparent, fair and seen to be fair.
16. Members shall treat each person with dignity, courtesy and respect and in a manner that builds trust and confidence in the CAT and the administration of justice.
17. Members shall conduct Proceedings in a manner such that those who appear before them understand the CAT's procedures and practices and have a reasonable opportunity for informed and effective participation in their Proceedings.
18. Members shall foster mutual respect among those participating in mediations and hearings and their decisions shall show respect for participants.

Independence and Impartiality

19. Members shall treat those who appear before them and all those with whom they interact in their role as Members without preference or prejudice.
20. Members must maintain independence in their decision-making. Members' decisions should be based on an application of the relevant law to the evidence presented in each case.
21. Members should approach Proceedings and every issue arising in Proceedings with an open mind and avoid doing or saying anything to cause any person to think they have done otherwise.
22. When making decisions, Members must apply the law to the evidence in good faith and to the best of their ability. Members must not consider any potential positive or negative response by any person, institution, or community when making their decisions.
23. For greater specificity, Members of the CAT are not considered to have a conflict of interest or be in violation of this Code of Conduct because they are an owner or resident of a condominium, or because they serve as a director and/ or officer of a condominium corporation. CAT Members must disclose any and all conflicts of interest in accordance with the requirements of the CAT Member Conflict of Interest Policy, and where a conflict or potential conflict exists, the Chair will not assign that Member to that case.

Timeliness

24. Members should take reasonable steps to ensure that Proceedings are conducted in a timely manner, in accordance with the CAT's Rules of Practice and service standards, and to avoid any unnecessary delays.

25. Members should prepare and release decisions in a timely manner and in accordance with the CAT's service standards.

Quality and Consistency

26. Members should be fully prepared for Proceedings and ensure that Proceedings are conducted in an orderly manner, in accordance with the CAT's Rules of Practice and all applicable rules and guidelines.

27. Members shall ensure that decisions are prepared in accordance with CAT's policies and guidelines, that they reflect an understanding of the issues, relevant law and policies, and that they meet CAT's standards for quality decision-making. Members should consider all relevant facts and evidence as well as the law, jurisprudence, policies, rules and guidelines.

28. Reasons should be clear, concise and clearly support the conclusion.

29. Members should recognize the value of consistency and predictability in the exercise of their independent decision-making authority.

Confidentiality

30. Members must act in accordance with the CAO's Access and Privacy Policy.

31. Members must not communicate with the media regarding Proceedings.

32. Members shall consider the privacy interests of individuals in the conduct of Proceedings and act in accordance with applicable laws.

33. Members must protect their passwords and must not share their passwords with anyone other than CAO IT Staff.

Expertise and Competence

34. Members are expected to have expert knowledge about the current versions of relevant legislation, regulations, policies and jurisprudence that apply to their work and the work of CAT.

35. Members are expected to participate in CAT members' meetings and CAT ongoing professional development.

36. Members are expected to be knowledgeable and proficient in conducting proceedings in the CAT Online Dispute Resolution system (CAT-ODR). They are expected understand how to use the CAT-ODR system, to be able to manage multiple cases simultaneously, and, where there is uncertainty, to seek clarification before performing actions within the CAT-ODR system.

Proactive Approach

37. Members should be aware of the CAT Rules of Practice which promote 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.
38. Members should ensure that Proceedings are conducted fairly, effectively and expeditiously and that the procedures employed are appropriate and proportionate to the issues and circumstances of the dispute.
39. Where appropriate, Members should employ an active adjudicative approach by anticipating problems before they arise; minimizing undue delay; helping clarify issues; promoting clear presentation of evidence and arguments, and to have regard both to efficiency and fair decisions.

Integrity

40. Members shall act with honesty and integrity and shall treat those who appear before them, other Members and staff with courtesy and respect.
41. Members shall not engage in any conduct that improperly capitalizes upon or exploits their position as a Member.
42. Members shall conduct themselves personally and professionally in a manner consistent with the nature of their responsibilities and the maintenance of public confidence in the administration of justice.

Ethics

43. Members must be aware of the CAT Ethical Framework, and their responsibility to follow the policies and procedures to prevent and declare possible conflicts of interest.
44. Members must act in accordance with CAT's Conflict of Interest Policy and must comply with the directions given by the Chair in their capacity as the Ethics Executive.

Collegiality

45. Members should foster a collegial working environment and conduct themselves in a manner that supports and reinforces the integrity and professionalism of CAT.
46. Members should conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues and staff.
47. Members should share their knowledge and expertise with other Members and staff as requested and where appropriate.

Diversity and Inclusiveness

48. Members should be aware and respectful of social, cultural, and other differences, and value the diversity of Users who appear before them.
49. Members must be alert to potential barriers that may restrict access to and participation in Proceedings before CAT and work proactively towards their amelioration or elimination.

Professional Activities Outside CAT and Public Comment

50. Members should conduct their personal affairs and professional responsibilities in a manner that would bear close public scrutiny.
51. Members must be aware of the Ethical Framework for the tribunal, and the relationship between the Member Code of Conduct and CAO policies governing outside activities and comment.
52. Members should be mindful of their relationships and activities outside of CAT and have regard to the fundamental importance of impartiality and integrity and the appearance of impartiality in all that CAT does.
53. Members should exercise discretion and sound judgment with respect to all membership and/or participation in professional associations and outside activities so as to ensure that they maintain the highest standards of integrity and avoid situations that may give rise to bias or an appearance of bias.
54. All professional associations and outside activities that could reasonably be perceived to relate to any of the matters which could come before CAT must be disclosed to the Chair before the individual is recommended for appointment or reappointment to CAT. Proposed new associations or activities, including directorships, public speaking engagements, and planned publications should be discussed with the Chair before they are undertaken.
55. Members must not solicit (either directly or indirectly) or accept a gift, favour, service, or promise of future benefit from any individual or organization that appears or may appear before the CAT. This provision is not intended to prohibit the exchange of gifts between friends or professional acquaintances that would not amount to a perceived conflict of interest.
56. Members shall not comment publicly on another Member's conduct or decisions (except respectfully in a decision or in the course of their duties as a Member). Members shall not comment publicly on the law, government policy, or any matters currently before the CAT or which may come before the CAT in the future.

57. Members speaking in a private capacity, and not on behalf of CAO or CAT, must identify that they are speaking in a private capacity and not on behalf of the CAO or CAT.

Undertaking

58. Each Member must adhere to this Code of Conduct and commit to supporting standards set out in applicable legislation, policies or guidelines.

59. Members should review and reaffirm their commitment to, and compliance with, this Code of Conduct upon appointment and on re-appointment.

I acknowledge that I have read and understand this Code of Conduct and agree to conduct myself in accordance with the Code of Conduct.

Signature of Member

Signature of Witness

Date:

Date: