

Confidentiality – A User Guide

cat Condominium Authority Tribunal

This guide provides an overview of the confidentiality requirements that apply to everyone who participates in a CAT case. It is intended to help Parties understand what information must be kept private and confidential and what can be shared, both during a CAT case and after it concludes.

Note: Images included in this guide may be slightly different than those in the system.

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Confidentiality Requirements

Everyone who participates in a Condominium Authority Tribunal (CAT) case is required comply with the confidentiality requirements set out under the [CAT’s Rules of Practice](#).

In particular, Rule 5.1 of the [CAT’s Rules of Practice](#) specifies that all messages, settlement offers, and documents that are shared in Stage 1 - Negotiation or Stage 2 - Mediation of a CAT case are private and confidential.

That means that messages, settlement offers, or documents that were provided in these

stages cannot be made public or used in Stage 3 - Tribunal Decision, unless the Parties agree and the CAT allows it.

This rule applies to all Parties involved with a CAT application, including:

- The Applicant(s);
- The Respondent(s);
- The Intervenor(s); and
- All Representatives.

What does “Confidential” Mean?

All messages, settlement offers, and documents that are shared in Stage 1 - Negotiation or Stage 2 - Mediation of a CAT case are private and confidential. That means that Parties **cannot**:

- Describe them in detail to others outside of the CAT-ODR system;
- Openly discuss them at a meeting of owners;
- Publicly post or distribute them (on paper or online); or,
- Otherwise disclose them to individuals who are not part of the related CAT case.

Likewise, if your CAT case moves forward to Stage 3 – Tribunal Decision, Parties **cannot**:

- Call the Mediator assigned to the case in Stage 2 - Mediation as a witness in Stage 3;
- Upload documents in Stage 3 that were uploaded by another Party in Stage 1 or 2, (unless the other Parties agree and the CAT allows it); or,
- Repost any messages or settlement offers that were used in Stages 1 and 2 (unless the other Parties agree and the CAT allows it).

Important Notes:

- Parties can disclose all case-related information and materials with their representative (if they have one). If they do, that representative is also bound by the CAT’s confidentiality requirements and cannot disclose that information or material;
- The CAT’s confidentiality requirements do not expire after the case closes. Parties must maintain confidentiality during a case and after it has concluded.

Why are Stage 1 – Negotiation and Stage 2 - Mediation confidential?

The purpose of Stage 1 – Negotiation and Stage 2 - Mediation is for the Parties to explore opportunities to resolve the issues in dispute collaboratively. That often involves an open discussion of the issues in dispute and may also include the exchange of documents or other materials.

By making these stages confidential, Parties are encouraged to work towards a resolution without worrying that their messages, documents and settlement offers will be used against them during Stage 3 – Tribunal Decision.

If a case moves to Stage 3 – Tribunal Decision, the role of the Adjudicator is to give each party an opportunity to make their case and then to make a final and binding decision based on the facts and law. That decision must only be based on what happened during the Stage 3 hearing, and cannot consider what the parties said or did in Stages 1 and 2.

By making Stage 1 and 2 confidential, the CAT can better ensure the fairness of the Stage 3 hearing process.

Is the Stage 3 – Tribunal Decision Hearing Confidential?

No, the Stage 3 – Tribunal Decision hearing is not confidential.

Any messages, documents or other material posted to the CAT-ODR system in Stage 3 – Tribunal Decision are adjudicative records and will form part of the record of the proceeding. That means that they may be provided to the public on demand in accordance with the [CAO's Access and Privacy Policy](#).

That does not mean, however, that Parties can share messages, documents or other materials with others while a hearing is ongoing. If you would like to share material from an active case with others, you should ask the Adjudicator assigned to your case before you do so.

At the conclusion of a case in Stage 3 – Tribunal Decision, the assigned Adjudicator will issue a Decision, which will be [posted on the CAT website](#). That Decision will include information about the evidence and arguments made by the Parties during the hearing.

Overview of Confidential Information

The following tables outline which portions of a CAT case are confidential.

General Information (Applies to all stages of the CAT Process)

Category	Information	Confidential (Yes/No)
Application	Existence of a CAT application / case	No
Application	If an application was accepted or dismissed by the CAT	No
Application	Current status of a CAT case (e.g., currently in Stage 1 – Negotiation)	No
Application	General description of what the application / case is about	No

Correspondence with CAT Staff	Questions and other correspondence with CAT staff (e.g., questions from Parties about the process)	Yes
Party Information	Party names	No
Party Information	Party contact information (e.g., mailing address)	Yes
Party Information	Representative names	No
Party Information	Representative contact information (e.g., their email address)	Yes
Problem Description	Overview of the issues in dispute	No
Member	Name of the CAT Mediator or Member assigned to a case	No
Motions	Content of a motion filed with the CAT	No
Motions	Content of a submission responding to a motion	No
Motions	The CAT's response to a motion (e.g., issuing an order to adjourn the case)	No
Closing Reasons	The reason why a case closed (e.g., settlement agreement)	No
Documents	Settlement Agreements	Yes
Documents	Consent Orders	No
Documents	CAT Orders / Decisions	No

Stage 1 – Negotiation

Category	Information	Confidential (Yes/No)
Messages	All messages exchanged in Stage 1	Yes
Documents	Documents that contain settlement related messages or settlement offers uploaded in Stage 1	Yes
Settlement Offers	The contents / terms of any settlement offers made during Stage 1	Yes

Stage 2 – Mediation

Category	Information	Confidential (Yes/No)
Messages	All messages exchanged in Stage 2	Yes
Messages	Any private discussions with the Mediator	Yes
Messages	The content of any discussion that occurred outside of the CAT-ODR system (E.g., a conference call with the Mediator and other Parties)	Yes
Documents	Documents that contain settlement related messages or settlement offers uploaded in Stage 2	Yes
Documents	Stage 2 Summary and Order – Issued by CAT Mediator	No

Settlement Offers	The contents / terms of any proposals made by the CAT Mediator or the other parties to resolve the dispute	Yes
Requests	Any requests (i.e., motions) filed by any of the parties and all related material	No

Stage 3 – Tribunal Decision

Category	Information	Confidential (Yes/No)
Schedule	Stage 3 hearing schedule created by the Adjudicator	No
Written Hearing	Messages posted to the Written Hearing tab	No
Documents	Documents uploaded during Stage 3	No
Witnesses	Witness names	No
Witnesses	Witness contact information (e.g., email address)	Yes
Witnesses	Witness testimony (both live and written)	No
Requests	Any requests (i.e., motions) filed by any of the parties and all related material	No

CAT Decisions and Orders

The CAT's Decisions and Orders are published on the [CAT's website](#). That includes:

- **Decisions**

Decisions are legally enforceable orders issued by the CAT after conducting an online hearing in Stage 3 – Tribunal Decision.

- **Consent Orders**

Consent orders are legally enforceable orders issued by the CAT after the Parties agree to settle the dispute in a way that the CAT can order. The CAT can issue consent orders in either Stage 2 – Mediation or Stage 3 – Tribunal Decision.

- **Other Orders**

In addition to Decisions and Consent Orders, the CAT also publishes:

- All orders dismissing cases (e.g., for lack of jurisdiction or other reasons).
- Motion and Procedural orders which the CAT finds to have addressed substantial issues, or if publication of the order is in the public interest.

The CAT does not publish Settlement Agreements.

Protecting Personal Information

As noted above, the CAT publishes decisions, consent orders, and other orders on our website. We do so in accordance with the open courts principle set out in [section 2 \(b\) of the Canadian Charter of Rights and Freedoms](#).

Likewise, the CAT generally will not:

- Anonymize the names of any Parties, Representatives or Witnesses that appear before it; or,
- Restrict public access to a CAT decision or order.

The CAT can, however, take steps, give directions or issue orders to protect the confidentiality of personal information, and/or restrict public access to a decision or order upon request, in accordance with Rule 19 of the [CAT's Rules of Practice](#). The CAT can do so on its own initiative or on request.

That means that anyone can request that the CAT take steps, give directions, or issue orders to protect the confidentiality of personal information by restricting access to the adjudicative records in the case, or by anonymizing the names or other information of individuals, either in the adjudicative records or any decisions or orders.

Requesting a Confidentiality Order

If you are currently involved in a case in Stage 3 -Tribunal Decision and you have concerns about public access to the adjudicative records in the case, you should raise your concerns with the Adjudicator assigned to your case.

You can also make a request for the CAT to anonymize or limit public access to adjudicative records, decisions or orders by sending an email to: CATinfo@condoauthorityontario.ca.

When making a request, you should include:

1. The CAT case number;
2. Your relationship to the case (e.g., you were the Applicant);
3. What information or portions of the decision / order you wish to anonymize or restrict public access to (e.g., request to anonymize the identity of a witness); and
4. The reasons why this information should be made confidential.

Have Questions?

If you have any questions, please contact us directly:

- Phone – Local: 416-901-9356
- Phone – Toll-Free: 844-880-5341
- Email: CATinfo@condoauthorityontario.ca