

# Condominium Authority of Ontario

## Consumer Protection and Compliance Policy

### 1.0 Introduction

This policy sets out the Condominium Authority of Ontario's approach for protecting condominium consumers by verifying compliance with certain legal obligations under the Condominium Act.

### 2.0 Definitions

- a) "Condo Authority" and "CAO" means the Condominium Authority of Ontario
- b) "Corporation" means a condo corporation that is registered with the Land Registry Office under [section 2](#) of the Condo Act
- c) "Director" is an individual elected or appointed to the board of directors of a condo corporation
- d) "Condominium management services" and "condominium manager" have the same meaning as in the *Condominium Management Services Act, 2015* ("CMSA")
- e) Condominium Management Regulatory Authority of Ontario ("CMRAO") is an organization which licenses and regulates condominium managers and condominium management providers in Ontario.
- f) "Condo management company" and "management company" have the same meaning as "condominium management services provider" in the CMSA
- g) "Registrar" means the Registrar of the CAO
- h) "Returns" means condo returns required to be filed by condo corporations under [section 9.2](#) of the *Condominium Act, 1998* ("Condo Act")
- i) "Training" and "mandatory training" mean the condominium director training program under [section 11.7](#) of Ontario Regulation 48/01

### 3.0 Background

#### 3.1 The Condominium Authority of Ontario

The CAO is mandated by the Ontario government to inform and protect condo consumers through information, education and dispute resolution services.

The CAO provides a suite of online resources and services for Ontario's condo sector, including our mandatory [director training program](#), [condo returns and notice of change \(NOC\) filing system](#), and an integrated issue and dispute resolution service to orient users through guided steps to common issues and the [Condominium Authority Tribunal](#).

The CAO promotes compliance with Condo Act requirements and the accurate and timely reporting of important data through condo filings which are published on our public [Condo Registry](#), along with key annual legal obligations for each condo on the CAO's [Condo Calendar Tool](#). Current key legal obligations under the Condo Act currently related to this policy are outlined in Appendix A.

### 3.2 Consumer Protection and Compliance Practices

Compliance with legal requirements under the Condo Act protects consumers by ensuring that:

- Important information about each condo corporation is filed and kept up-to-date and available to owners and potential purchasers on the Condo Registry
- Condo directors are trained and qualified to act on behalf of the corporation
- Condo boards have quorum to act on behalf of the corporation
- Condo corporations enter into agreements with licensed condo managers and condo management companies
- Owners are protected from non-compliance related consequences (e.g. costs and penalties).

The vast majority of condo corporations meet their legislative obligations without any intervention. The CAO's consumer protection and compliance practices have proven successful in resolving instances of non-compliance, thereby protecting condo consumers and owners.

Where there are instances of non-compliance, the CAO uses a proactive, risk-based, and progressive approach that first reminds corporations and directors of their legal obligations and then take steps to promote and educate on compliance.

All condo corporations and condo directors in Ontario are required to comply with the Condo Act and its regulations as well as their own declaration, by-laws and rules.

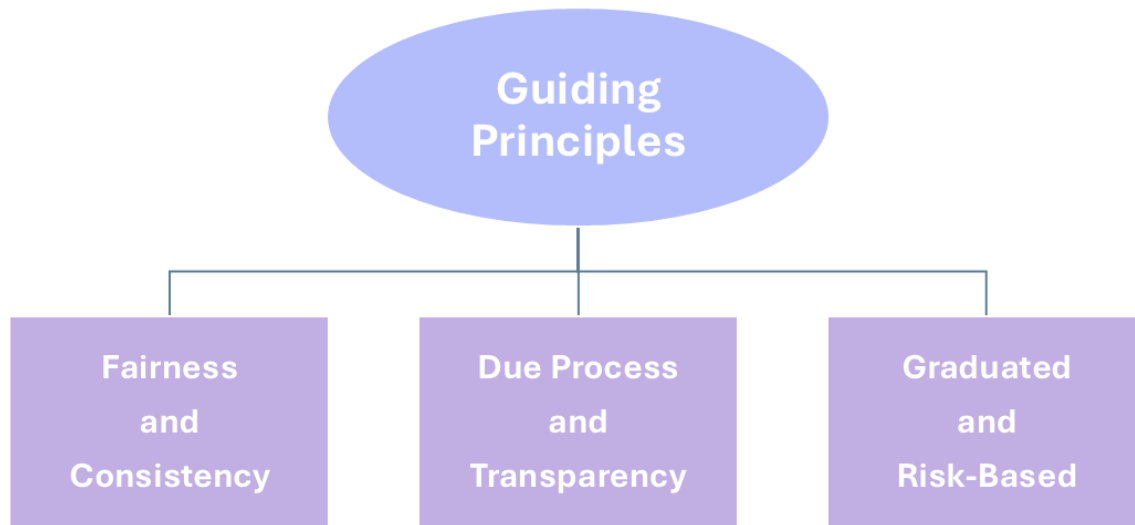
Condo directors are required to comply with the standard of care under [section 37](#) of the Condo Act to exercise the powers and discharge their duties honestly and good faith, and with the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Managers have a duty to promote and protect the best interests of their client (the condo corporation) under [section 13](#) of O. Reg. 3/18 of the CMSA. Managers must provide conscientious and competent services under [section 5](#) of O. Reg. 3/18 of the CMSA (the "[Code of Ethics](#)") not counsel, advise or knowingly assist a person to contravene the CMSA, the Condo Act, or any other prescribed Act under [section 56](#) of the CMSA.

CAO's consumer protection and compliance practices involve several progressive steps to verify that directors and managers who act on behalf of the corporation comply with the corporation's legal obligations under the Condo Act. Key obligations include the filing of accurate and timely information with the CAO as required under the Condo Act to protect consumers.

## 4.0 Guiding Principles

CAO's consumer protection and compliance practices are guided by the following principles.



### **Fairness and Consistency**

CAO applies measures in a fair, consistent, and compassionate manner and ensures its decisions are informed by evidence and only influenced by relevant factors.

### **Due Process and Transparency**

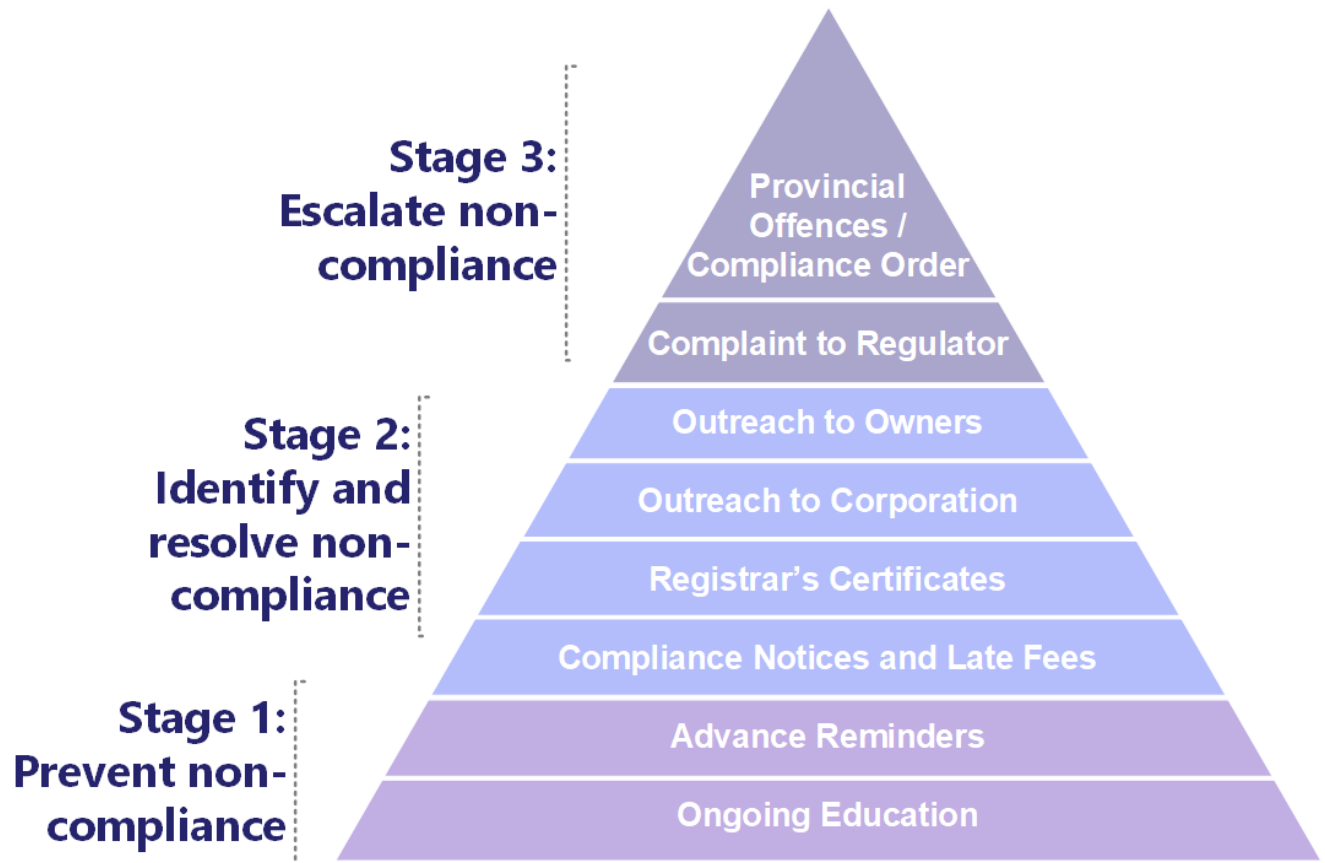
CAO's measures are applied with due process, proactive engagement with condo sector partners and stakeholders in the delivery of compliance responsibilities in an open, supportive, and cooperative way.

### **Graduated and Risk-Based**

CAO applies a graduated escalation approach through education, reminders, notices, outreach, and legislative measures as necessary.

## 5.0 Proactive and Progressive Approach

The CAO uses the following proactive and progressive approach to compliance which favours early intervention and remediation:



## Stage 1: Prevent Non-Compliance

### ➤ Ongoing education

The CAO provides ongoing support and education regarding legal obligations under the Condo Act, including guides on the website, the CAO's mandatory director training program, and an information services team who are available to answer questions about legal obligations and best practices.

### ➤ Advance reminders

When a condo corporation has an upcoming deadline, such as a deadline to file or a deadline for a director to take the mandatory training, the CAO sends reminders to the corporation's email address for service, all members of the board of directors, and any condo manager and other representatives that have been filed with the CAO in a condo return. These reminders outline actions to meet legal obligations and/or updates to information filed with the CAO to confirm that the legal obligations have been met.

## Stage 2: Identify and Resolve Non-Compliance

### ➤ Compliance notices and late fees

The CAO issues compliance notices when a condo corporation does not comply with its legal obligations or if a director ceases due to non-completion of the mandatory training by the legal deadline.

CAO's compliance notices advise the corporation of the non-compliance and provide information on how to bring the corporation into compliance. Where the issue relates to the filing of information regarding a manager or management company that cannot be verified with the data provided by the CMRAO and displayed on the CMRAO public registry, the CMRAO is notified.

If the corporation does not act to resolve the non-compliance issue in 30 days, a final notice is sent, advising the corporation that a Registrar's Certificate will be posted.

For non-compliance with condo filing requirements within the prescribed time, late filing fees will be assessed to the corporation according to [section 9.6](#) of the Condo Act and [section 9](#) of Ontario Regulation 377/17.

### ➤ Registrar's Certificate

Following the final notice and 30-day timeline for the condo corporation to resolve the non-compliance issue, the CAO's Registrar will issue a Registrar's Certificate certifying that the condo corporation has not complied with its filing obligations as specified in [section 9.9](#) of the Condo Act.

The Registrar's Certificate certifies that the condo corporation has failed to file a required condo return or NOC to address the non-compliance with a legal obligation. It is removed once the corporation becomes compliant.

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If the CAO Registrar has issued a Registrar's Certificate for a condo corporation, it is important to note that [section 9.9 \(3\)](#) of the Condo Act specifies that a Registrar's Certificate may be used as evidence in any prosecution or other legal proceeding.

In addition, [section 23.1](#) of the Condo Act stipulates that condo corporations with outstanding fees owed to the CAO are not capable of maintaining a proceeding before the Condominium Authority Tribunal, or a court in Ontario, without obtaining leave by the court.

### ➤ Outreach to corporation

In addition to the automated notices above, the CAO also conducts direct outreach through direct mail and telephone (if located) to advise condo corporation directors, condo manager and/or other representatives of the corporation's non-compliance and advising them of the implications of non-compliance with their legal obligations and how to resolve the issues.

### ➤ Outreach to owners

Where the CAO cannot reach directors or managers, and/or in high-risk cases, the CAO will make efforts to reach and inform condo owners about their condo corporation's non-compliance with legal requirements to protect their interests and advise them regarding potential actions that can be taken in order for their corporation to address the issues.

## Stage 3: Escalate Non-Compliance

### ➤ Complaint to regulator

The CAO partners with the CMRAO to protect condo consumers.

The CMRAO is a separate organization which licenses and handles complaints about condominium managers and condominium management service providers in Ontario.

CAO's compliance practices include verifying that directors, corporations, and managers are complying with the legal obligations under the Condo Act, including the filing of accurate information which is displayed on the Condo Registry to protect consumers.

The filing of accurate and timely information with the CAO is an important legal obligation which a condominium corporation may delegate to a licensed condominium manager or management provider.

Where a licensed condo manager or management provider is identified as failing to serve the best interests of their client condo corporation, such as not providing or updating accurate information regarding the corporation or a director's status, the CAO may file a complaint against the licensee with the CMRAO and notify the condominium corporation and the licensee of this complaint.

### ➤ Compliance Order

For continued and/or high-risk non-compliance, the CAO may consider other legal options available under the Condo Act to achieve compliance including issuing a compliance order.

Under [section 134.1 \(1\)](#) of the Condo Act, the CAO's Registrar may propose to make an order directing a condo corporation to comply with its filing or payment obligations. This involves the CAO Registrar serving the condo corporation with a notice of proposal to issue an order pursuant to section 134.2 of the Condo Act.

Where an order is issued, the condo corporation has an opportunity to request a hearing at the Licence Appeal Tribunal (LAT) in accordance with [section 134.1 \(3\)](#) of the Condo Act.

If the Registrar makes an order against the corporation and the corporation continues to not comply with the compliance order, the CAO can apply to the courts for enforcement of the order.

### ➤ Provincial Offences

The CAO may also pursue compliance through a provincial offence proceeding under section 136.2 of the Condo Act. A provincial offence proceeding may be pursued for non-compliance with CAO filing or payment obligations or knowingly filing false or misleading information.

A corporation convicted of an offence under [section 136.2](#) of the Condo Act is liable to a fine of up to \$50,000 while a person is liable to a fine of up to \$25,000.

## **6.0 Review of Policy**

This Policy will be reviewed at regular intervals, and no less than once every three (3) years to ensure that it continues to effectively serve its intended purpose.

## **Appendix: Key Condo Corporation Legal Obligations**

Key legal obligations under the Condo Act which are in place to inform and protect consumers include the following:

<b>Legal Obligations</b>	<b>Reference</b>
File complete condo returns on time	<a href="#">Section 9.2</a> of the Condo Act states that all corporations must <a href="#">file condo returns</a> and pay assessment fees as specified by the legislation
File notices of change within 30 days of a change to information previously filed	<a href="#">Section 9.3</a> of the Condo Act and section 7 of <a href="#">O. Reg. 377/17</a> require that corporations file <a href="#">notices of change</a> within 30 days of a change to prescribed information previously filed.
File information that is complete and accurate, and not false or misleading	<a href="#">Section 9.4</a> of the Condo Act states that condo corporations are prohibited from knowingly filing false or misleading information. Doing so is also an offence under <a href="#">section 136.2</a> of the Condo Act. This includes omitting information, where the omission renders the statement false or misleading.
Directors complete the mandatory director training by their legal deadline	<a href="#">Section 29 (2)</a> of the Condo Act states that a director who misses their deadline to complete the mandatory training immediately ceases to be a director. Condo corporations must file a notice of change within 30 days of a director of being ceased to remove the director from the Condo Registry.
Condo management services are provided by only licensed condo managers and management companies	<a href="#">Section 17.0.1</a> of the Condo Act states that a corporation shall not enter into an agreement to receive condo management services, unless the condo manager or management company is licensed under the <a href="#">CMSA</a> .