



CAT Practice Direction:

Confidentiality & Public Access to CAT Records

Effective: October 1, 2026

The Chair of the CAT issues Practice Directions to provide more information about the CAT's practice or procedures.

All references to a "Rule" or "Rules" in this Practice Direction, refers to the CAT Rules of Practice.

While this practice direction refers to cases; please note that there may be other or new cases that also apply.

1. Public Access to CAT Records

The public may access certain types of records referred to as "adjudicative records" that are generated in a CAT case. The CAT is committed to transparency, accountability and accessibility in its decision-making and operations.

The open court principle, embedded in s. 2(b) of the [Canadian Charter of Rights and Freedoms](#), requires that the CAT provide public access to adjudicative records contained in its case files. The CAT is also guided by section 2 of the [Tribunal Adjudicative Records Act, 2019](#)¹. Access and transparency support the public's understanding of and confidence in the administrative justice system.

CAT files may contain the following adjudicative records:

- The application;
- Any document required to be submitted when the application was filed;
- The Notice of Application;
- Any motion-related correspondence and submissions;
- Written submissions;

¹ The CAT is not bound by the Tribunal Adjudicative Records Act, 2019 – but the CAT strives to meet the spirit and intent in its approach.

- Documentary evidence;
- Recordings of oral portions of the proceedings, if any;
- Orders and/or decisions; and,
- Hearing schedules.

Some CAT records are not publicly accessible. They are confidential because of the type of record, the information in the record, or because the CAT has ordered that public access be restricted.

The CAT's approach to providing access is guided by the [CAO's Access and Privacy Policy](#) which sets out how the CAO and the CAT will protect, and provide access to, personal information and records.

The Rules specify that the public's access to CAT records is limited to Stage 3 – Adjudication (Rule 5.2).

2. What does “Confidential” Mean?

When information is confidential, that means that parties **cannot**:

- Share them with others not involved in the CAT case;
- Tell others about them (e.g. at a meeting of owners); or
- Publicly post or distribute them (on paper or online).

However:

- The CAT or a court may permit or order that confidential information be disclosed to non-parties; and,
- The 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.

3. How Confidentiality Applies:

3.1. To Settlement Discussions and Agreements

Stages 1 – Negotiation and 2 – Mediation are designed to promote the parties' discussion of the issues and to enable them to work together to explore opportunities to

resolve the issues.

Rule 4.1 states that messages and other communications sent for the purpose of reaching a settlement (including settlement offers) are confidential and cannot be made public. That Rule also acknowledges that information that is otherwise protected by law from being disclosed because it is privileged (e.g. advice from a lawyer) is also confidential.

During Stage 2 discussions, the parties should decide if they agree on whether the settlement should be confidential.

Once the case has moved to Stage 3 – Adjudication, the parties will not have access to the messages and settlement offers exchanged in Stage – 1 Negotiation or Stage 2 – Mediation (Rule 4.2). The parties will also not have access to those messages or offers if the case is closed.

Importantly, not every document shared in Stage 1 or 2 is confidential.

If the parties agree to resolve their dispute, they will typically sign a settlement agreement that requires the parties to keep the agreement confidential. The parties can choose to waive this requirement as part of the settlement process.

3.2. Confidentiality of information created at all CAT Stages

This table is intended as an overview of information that is routinely created or shared between the parties across all CAT stages and whether it is confidential.

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
Privileged	Information that is already protected from disclosure by	Yes

Information	law, such as advice from a lawyer (solicitor-client privilege)	
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 if the parties agreed to confidentiality	Yes
Documents	Consent Orders	No
Documents	CAT Orders / Decisions	No

3.3. Confidentiality of information in Stage 1 – Negotiation

This table is intended as an overview of information that is routinely created or shared between the parties during Stage 1 and whether it is confidential.

Category	Information	Confidential (Yes/No)
Messages	All messages exchanged in Stage 1	Yes
Documents	Documents that contain settlement related messages or settlement offers in Stage 1	Yes
Settlement Offers	The contents / terms of any settlement offers made during Stage 1	Yes
Documents	Settlement Agreements if the parties agreed to confidentiality	Yes

3.4. Confidentiality of information in Stage 2 – Mediation

This table is intended as an overview of information that is routinely created or shared between the parties at Stage 2 and whether it is confidential.

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 online 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
Documents	Settlement Agreements where the parties agree to confidentiality	Yes
Motions	Any motions filed by any of the parties and all related material	No

3.5. Confidentiality of Information in Stage 3 – Adjudication

The table below summarizes the types of information generated in Stage 3 and indicates whether confidentiality will apply.

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

Consistent with the open court principle, everything that occurs during the hearing will be included in the CAT's adjudicative records. Rule 5.3 identifies the kinds of records that may be found in a CAT file.

Importantly, documents and information exchanged during Stage 1 – Negotiation or Stage 2 - Mediation are not automatically part of the record and may not be accepted by the CAT even if a party wishes to submit them.

In general, if a case moves to Stage 3 – Adjudication, parties **cannot**:

- 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).

4. Obtaining a Confidentiality Order from the CAT

4.1. Making the request

On its own initiative or on request, the CAT may make an order to protect the confidentiality of personal information or otherwise restrict public access to all or part of its adjudicative records. This is referred to as a **confidentiality order** and may:

- Restrict the publication of certain information;
- Anonymize an individual's name or other identifying information in the CAT's decision; or otherwise,
- Restrict access to all or part of the adjudicate records filed with the CAT.

If a party wants to request a confidentiality order because they have concerns about public access to the adjudicative records in a CAT case, they should make that request as soon as possible.

A party can request a confidentiality order by:

- Sending the CAT an email at CATinfo@condoauthorityontario.ca if the case is in Stage 1 – Negotiation or after the case is closed; or
- Making a request to the Member assigned to the case if your case is in Stage 2 – Mediation or Stage 3 – Adjudication

When making a request, a party should be as specific as possible about what record or information they want to be restricted from public access and why. A party should also consider the legal factors that the CAT will apply, described below, when making their request.

4.2. Relevant factors the CAT considers

As public access to adjudicative records is protected by the Charter, restrictions on access are exceptional and confidentiality orders are rare.

In deciding whether to issue a confidentiality order, the CAT will consider the nature of the information, the interests of affected individuals, and the public's interest in the openness of proceedings.

The CAT may make a confidentiality order if:

- (a) Matters involving public security may be disclosed; or
- (b) Intimate nature of the financial or personal matters or other sensitive matters contained in the record are of such that the public interest or the interest of a person served by avoiding disclosure outweighs the desirability of adhering to the principle that the record be available to the public.

The CAT will consider Supreme Court of Canada's decision in [*Sherman Estate v. Donovan*, 2021 SCC 25](#), which indicates that there are three pre-requisites to restricting access to adjudicative records:

- (a) Openness poses a serious risk to an important public interest;
- (b) The order is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
- (c) The benefits of the order outweigh its negative effects.

The following table provides an overview of some of the kinds of information that may be the subject of a Request for a Confidentiality Order and the likely outcome.

Information	Likely subject to a Confidentiality Order? (Yes/No)
Personal information about minors / persons under the age of 18.	Generally, yes.
Personal information about victims of domestic or sexual abuse.	Generally, yes.
Personal information that may pose a legitimate risk to health and safety or an individual's dignity.	Generally, yes.
<i>See, for example:</i> 2021 ONCAT 90 , 2022 ONCAT 41 , 2022 ONCAT 119 , 2024 ONCAT 10	
The parties or their witnesses would prefer to participate anonymously / remain anonymous.	Generally, no.
<i>See, for example:</i> 2019 ONCAT 22 , 2023 ONCAT 140	

Because the CAT will provide public access to adjudicative records not restricted by a confidentiality order, parties should be careful when disclosing sensitive personal information. Parties should:

- Only disclose sensitive personal information where necessary and relevant to the issues in dispute.
- Request a confidentiality order at the time of providing sensitive personal information, where appropriate.

5. How the CAT deals with Medical Information

The CAT recognizes that medical information is inherently sensitive personal information.

Rule 4.4 deals with when the CAT will accept medical information. Generally, the CAT will only accept medical information if it is from the person to whom that information relates. Medical information **may** include clinical notes and records about a person or reference to a specific diagnosis.

If a party believes that another person's medical information is relevant to the issues in dispute, that party must specifically request the CAT accept this information.