



CAT Practice Direction: Mediation-Adjudication

Effective: October 1, 2026

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

1. Introduction

This Practice Direction provides additional information on the Mediation-Adjudication (Med-Adj) process under Rule 32 of the CAT Rules of Practice ("CAT Rules").

What is Med-Adj?

Med-Adj combines two stages of dispute resolution: mediation and adjudication. Initially, the CAT Member works with the parties as they try to reach a settlement through mediation. Any outstanding issues that are not resolved through mediation are decided by the same CAT Member conducting the adjudication.

The CAT Rules address the topic of Mediation-Adjudication at Rule 32:

32.1 If the parties agree, the CAT Member may conduct a combined mediation-adjudication. In mediation-adjudication, the CAT Member works with the parties to try to resolve the issues in dispute. If the parties cannot resolve the issues in dispute, the CAT Member will then decide the remaining issues.

32.2 The parties must agree before mediation-adjudication commences.

2. CAT Member's Role

The CAT Chair assigns a CAT Member to the case.

The CAT Member is responsible for managing the case by exercising their authority as outlined in the CAT Rules and the [Condominium Act \(1998\)](#) (the "Condo Act"), to determine all questions of fact or law that arise in any proceeding before it.

If the CAT Member determines that Med-Adj may be appropriate, the CAT Member will explain the process to the parties. The CAT Member will also explain expectations of the parties for each phase.

When acting as Mediator, the CAT Member will remain impartial and may:

1. Meet separately with the parties;
2. Question the parties' respective positions;
3. Generate, or evaluate options for resolution; and/or
4. Provide information about Tribunal cases, and relevant portions of the Condo Act and Regulations.

If there are unresolved issues, the CAT Member will act as an Adjudicator and will:

1. Ensure a fair adjudication process by providing an opportunity for parties to present their case, challenge evidence presented by the other party and make submissions;
2. Make preliminary decisions about substantive and procedural matters;
3. Manage the adjudication proceeding;
4. Decide evidentiary matters;
5. Decide the case on its merits by considering the evidence, parties; submissions, legislation and legal principles; and
6. Issue a written Decision and Order.

3. Med-Adj Process

How Med-Adj Starts

Med-Adj can be requested by the parties, or be proposed by the Tribunal:

1. At the start of Stage 2 – Mediation; or
2. During the Mediation if the parties agree to the Member deciding the remaining issues; or
3. At the start of Stage 3 – Adjudication.

The CAT may propose Med-Adj if no mediation previously took place in Stage 2 of the case– for example, where an adjudication starts as a default hearing because the Respondent(s) did not initially join the case but has subsequently joined.

Upon request of a party, or on its own initiative, the CAT Member will explain the steps in the Med-Adj process and seek consent of all the parties to begin.

Med-Adj can only proceed if approved by the CAT Member, and all parties agree.

How the Case Transitions from Mediation to Adjudication

The mediation will follow the Rules for mediation (Rules 33-36). If an adjudication follows the mediation, it will follow the Rules for adjudication (Rules 37-44).

1. The mediation phase of Med-Adj will end when:
2. The parties settle the case;
3. The time limit set by the CAT Member for the mediation has expired;
4. The CAT Member declares the case unlikely to settle;
5. The CAT Member decides it is appropriate to move to adjudication; or
6. The parties agree to move on to adjudication.

When the Mediation ends but no Settlement is Reached

Before the parties may proceed to the adjudication stage of Med-Adj the CAT Member will confirm to the parties which, if any, issues are resolved, and if there are any shared facts from the mediation that will be helpful for the adjudication to follow and the issues to be decided.

The Adjudication Phase of the Med-Adj Process

The CAT Member will give instructions for the adjudication.

If a party has disclosed confidential information to the CAT Member during the mediation phase, the CAT Member will not use it when making their final decision in the adjudication. This is to ensure that the adjudication phase will remain impartial and fair.

Confidentiality of Med-Adj and the Tribunal Record

The Mediation and Adjudication phases have different requirements regarding confidentiality.

Messages and other communications sent by the parties for the purpose of reaching a settlement (including settlement offers) are confidential and cannot be made public or discussed in the adjudication. They do not form part of the Tribunal's adjudicative records, which are accessible by the public.

Consistent with the legal principle that the public be able to observe the tribunal process (referred to as the "open court principle"), everything that occurs during the adjudication phase will be included in the Tribunal's adjudicative records, which are accessible by the public. What is and is not an adjudicative record and the process for access is set out by the CAO's Access and Privacy Policy. The CAT Member will give written instructions to be placed on the file to ensure that the adjudicative records are separate and distinct from any communications which occur during the mediation phase.