



By Ian Darling
Chair
Condominium Authority Tribunal



By Marc Bhalla
Member
Condominium Authority Tribunal

Dispute Resolution

Your Online Dispute Resolution Resource

Ontario's First Online Tribunal Was Launched on November 1, 2017



Finding himself early for a meeting downtown, Marc visited the local Starbucks and was pleased to find no one in line to order. What luck! With 20 minutes until the meeting, he could place his complicated latte order with time to spare... or so he thought, until he saw his coffee cup lined up behind 20 mobile orders being prepared. While Marc stood in line, others arrived at the coffee shop to find their drinks ready for them. His traditional approach to ordering coffee cost him more time and less flexibility than others who placed orders more conveniently.

Society is increasingly using technology to make life easier. Consider this in respect to access to justice. Recent studies have indicated that more than 50% of Canadians are unable to address their legal issues – and that almost half of us experience a legal issue every 3 years. While certain disputes are appropriate for our court system to address, the unfortunate truth is that many disputes are simply not being addressed. This sentiment was shared repeatedly in the feedback collected during the province's recent review of its condominium legislation.

The Condominium Authority of Ontario (CAO) is a newly established organization

that aims to improve condominium living by providing services and resources for condominium owners. As part of the CAO's focus on consumer protection and supporting healthy condo communities across the province, it launched Ontario's first online tribunal on November 1, 2017.

The Condominium Authority Tribunal (CAT) has a mandate to help settle and decide specific condominium disputes. It does this through a convenient and affordable online dispute resolution (ODR) platform. It encourages members of condominium communities to resolve disputes together and, if they are unable to do so, makes a binding decision. The CAT's jurisdiction is limited to records disputes right now, initially focussing on disputes pertaining to Section 55 of the Condominium Act, 1998 (the "Act"). Over time, this jurisdiction is expected to expand to address other common forms of condominium disputes through this speciality tribunal.

Before engaging the CAT's 3-stage system, members of Ontario's condominium community can access a growing wealth of in-

formation on the Condominium Authority of Ontario's website (www.condoauthorityontario.ca). The information includes resources about how to address common disputes (including those beyond the jurisdiction of the CAT at the time of writing), points to relevant legislation and common applicable provisions in condominium governing documents and offers guidance on resolving issues.

Stage 1 - Negotiation

When "self-help" remedies do not suffice, the CAT's online platform can be engaged to help further. The first step in filing a case involves starting a new application. Users are asked to confirm the capacity in which they are participating (as a unit owner, representative, etc.). They are then directed to ODR where they are asked to provide information about their condo, the issues in dispute and their desired resolution.

The person applying for assistance (the applicant) is then required to provide notification to the other party (the respondent) which includes information that will allow

ILLUSTRATION BY JASON SCHNEIDER

DEDICATED LOCAL PROFESSIONAL

For the Life of Your Community™

LET CRITERIUM – JANSEN ENGINEERS® BE YOUR ENGINEER
BECAUSE... **YOUR COMMUNITY IS OUR COMMUNITY.**

RESERVE FUND STUDIES

PERFORMANCE AUDITS

PROJECT MANAGEMENT

CRITERIUM®
JANSEN ENGINEERS

www.criterium-jansen.com

1.888.940.0571

the responding User to access the online system and join the process.

In the first stage of the online process, Users negotiate without a Tribunal Member, by exchanging messages and settlement offers. If a settlement offer is accepted, the online system helps prepare a binding settlement agreement. Failing this, the applicant will have the option of proceeding to the next stage of the process, online mediation. The fee to negotiate is \$25.00.

Stage 2 - Mediation

A fee of \$50 must be paid by the applicant to advance to Stage 2, at which time the tribunal will assign a Mediator who will help guide communications and negotiations, encouraging attempts to settle. The mediation takes place online in a similar manner to in-person mediation, with the Mediator having the opportunity to communicate privately with individual Users and facilitate a “joint session” when they feel it is appropriate. Settlement offers can be exchanged, documents uploaded, and messages posted in a similar manner as in the negotiation stage. As in negotiation, the CAT system helps the Users document any settlement agreement that they reach.

If, however, mediation does not resolve the matter, the Users can proceed, to the Tribunal Decision stage. Before an adjudicator is assigned, the Mediator from Stage 2 will assist Users in preparing for the Tribunal Decision stage. This means helping to narrow issues and allow for a clearer and more effective adjudication process. The Mediator will provide a summary and procedural order, which will help prepare the Users for the next stage. The order and summary does not disclose any of the confidential information that the Users exchanged but can capture any partial settlements or nar-

rowing of issues that the Users have agreed to, as well as help set out exactly what will be determined by way of a Tribunal Decision. The order may also include orders about the procedures the Users must follow to make Stage 3 efficient, focused and fair.

Stage 3- Tribunal Decision

To proceed to Stage 3 and have a Tribunal Decision determine the matter, the applicant User must pay an additional \$125. A different Tribunal Member will be assigned to adjudicate and decide the case for the Users and will establish a schedule and instructions for the Users to participate

in their hearing. The hearing process is similar to that at other tribunals, with the exception that it takes place online. Upon completing the hearing process, the adjudicator will render a binding decision to address their matter.

By offering online dispute resolution, the CAT can respond to calls made throughout the legislative review process for flexible, fast and inexpensive dispute resolution for Ontario’s condominium community. **CV**

<http://bit.ly/LegalProblemReport>

<http://bit.ly/InnovationAndAccess>

Did You Know ...

- The CAT platform is available 24 hours a day, 7 days a week.
- While Users engaged in a case on the system are expected to check every business day for updates to their matter, the Tribunal will establish timelines and communication expectations in Stages 2 and 3.
- The CAT-ODR system is flexible. While many exchanges will be “asynchronous” (Users participate at their convenience, rather than at any mutually determined time), Tribunal Members may schedule “live” events (such as real-time messaging exchanges, video conferencing or even telephone calls).
- The system is designed to be offered online as a default, but accommodations can be made for individuals who are not able to participate in this manner.
- Audio files, photos and video files can be uploaded.
- The Tribunal can order costs which can be collected as common expenses or off-set against common expenses.
- The Tribunal can order damages of up to \$25,000, as well as compliance.
- CAT decisions are subject to limited appeal rights – appeal can only be on a question of law to Divisional Court.
- Stages 1 and 2 of the CAT process are private, but Stage 3 decisions will be made public.
- The CAT does allow for representatives to participate in the process. Representation is not limited to lawyers. Paralegals and non-paid assistance can also be utilized, while condominiums can also be represented by property management if they so choose.
- The Tribunal’s Rules of Practice provide that legal fees will generally not be recoverable even if they are successful in their case – unless exceptional circumstances apply.



DRYERFIGHTERS

CLOTHES DRYER FIRE PREVENTION

We remove flammable lint from

Inside your Clothes dryers.

(905) 455-2203

www.dryerfightersinc.com

info@dryerfightersinc.com



GLENDALE PROPERTIES INC.

www.glendaleproperties.ca

Kelly McLean, BES, RCM

Property Manager

kmclean@glendaleproperties.ca

112 Sheppard Avenue West

Toronto, Ontario M2N 1M5

BUS. (416) 224-1088

FAX. (416) 224-1369

CELL (905) 903-3227

