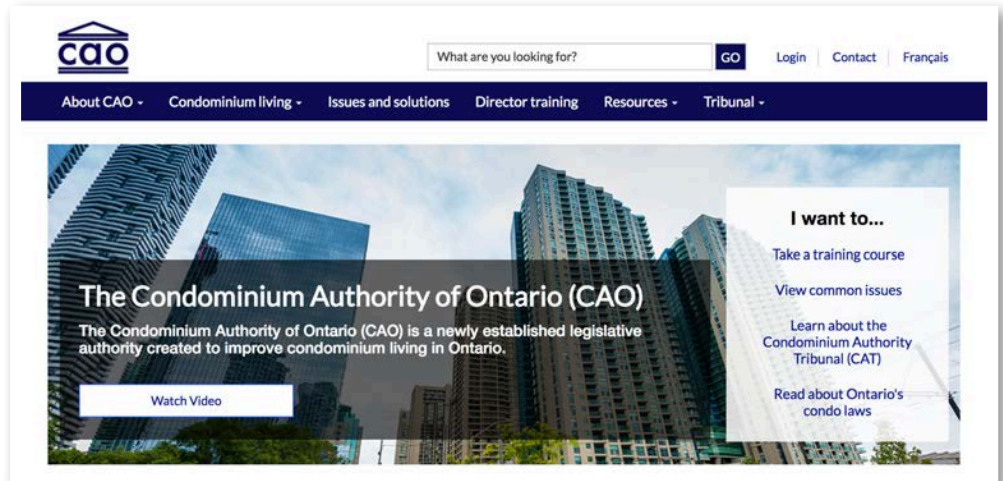


The Condominium Authority of Ontario



by Joe Duquette
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After many years of discussion and speculation, the new changes to the condominium industry are finally here! This article focuses on the new Condominium Authority of Ontario and the Condominium Authority Tribunal.

What is the Condominium Authority of Ontario?

The new Condominium Authority of Ontario (the “CAO”) has been set up by the Province of Ontario to offer services and to protect and serve the condominium community. Since September 1st, 2017, the CAO is the designated condominium authority in Ontario and its mandate is to provide condominium-related information and education. It also oversees the Condominium Authority Tribunal (the “CAT”).

What does the CAO do?

The CAO provides various services to condominium stakeholders. These services include, namely:

- Helpful and easy to use information on condominium living;
- Mandatory training for condominium directors;
- Setting up and maintaining a public registry of all condominium corporations and their directors for increased transparency and accountability;
- Self-help tools and guided pathways for resolving common issues and disputes; and

- Overseeing the CAT, which provides online guided negotiation, mediation and adjudication services for certain disputes.

The CAO’s website (www.condoauthorityontario.ca) provides a lot of information to condominium owners and condominium directors, including basic information about condominium ownership as well as a guide for condominium buyers.

How do I register my corporation with the CAO?

All corporations are mandated to register with the CAO. This is not optional and must be done **before December 31, 2017**. This mandatory registration will help create this public registry of all existing condominium corporations. It will also help manage and offer the CAO services. A corporation who fails to register, will not have access to the CAO services.

To get this process started, the CAO has sent out an invitation to all condominium corporations. However, this may be a logistical challenge in and of itself as there is currently no registry of all existing condominium corporations. As such, the CAO does not necessarily have a current address for all corporations. Naturally, not having your address already makes it difficult for the CAO to write to you.

It is crucial that you verify if your corporation has been registered. If you are managed, it is best to inquire with your condominium manager. If you have not received your CAO invitation, you or your condominium manager can contact the CAO at info@condoauthorityontario.ca.

Once your corporation is registered, you'll be able to pay the new assessment fees.

How much will the Condominium Authority of Ontario cost to condominium owners?

Naturally, the CAO and the CAT will require funds to operate. The CAO will be collecting the following fees for its services:

- An assessment fee of \$12 per voting unit, per year;
- \$25 filing fees for parties wishing to access the CAT's online dispute resolution system where they can negotiate in a neutral forum and attempt to resolve their dispute;
- \$50 for the services of a dedicated mediator who will attempt to settle the dispute in a collaborative manner between the parties;
- \$125 to get a formal adjudication of the dispute by a member of the CAT.

The base fee (\$1 per voting unit, per month) is payable by the corporations. Naturally, corporations will collect this from its owners. It is worth noting that the fee is calculated based on the number of voting units (residential or commercial). This excludes all parking and storage units from the calculation of this fee. The first instalment will have to be paid **before December 31, 2017**. It will cover the period from September 1, 2017 to March 31, 2018.

This new assessment fee will form part of the corporation's common expenses. As such, while the fee will be calculated on the basis of \$1/month per voting unit, not all units will actually be paying \$1. Some will be paying more and others will be paying less. It will all depend on each unit's percentage of contribution to the common expenses. This percentage is found in your declaration's schedules.

Mandatory Director Training

The *Condominium Act* now imposes mandatory training on all condominium directors. The CAO is responsible for administering such training. The CAO will also be authorized to accredit training and courses from other organizations. Every condominium director will have to take the required training within six (6) months following his/her election or appointment. A director who does not take the required training within this time frame will automatically be disqualified from the board.

Any director that has been appointed or elected prior to November 1, 2017 will be grandfathered and will not have to take this new training until their next election or appointment to the board. Stated otherwise, if you were already on the board prior to November 1, 2017, you will not have to take training until your next election.

The training is available on the CAO's website and consists of 21 modules. You can take these modules for free. Generally, the modules last less than 20 minutes and the platform is easy to use. Even if you are not required to do the training, any condominium director (and owners) would be well advised to complete these modules to get familiar with the new legislative scheme and regulation.

The training will be valid for a period of seven (7) years. After that, we expect that directors will have to take additional training. Eventually, it may be a good idea for the CAO to recognize ongoing training rather than expect directors to take the same basic training every seven (7) years. Giving credits for ongoing training would encourage directors to seek ongoing education and to stay abreast of changes in the condominium industry. This is more likely to make more informed directors than a mandatory basic course every seven (7) years.

Condominium corporations will have to reimburse all costs, charges and expenses incurred by directors taking the training. Such reimbursement will have to be made within 30 days. The fact that the regulation refers to both "costs" and "charges" leads to conclude that the corporation may have to reimburse directors for all reasonable out-of-pocket expenses incurred to seek such training. A written confirmation of completion of training will have to be provided to the director, to the condominium corporation and to the CAO.

What is the CAT?

As part of the revamping of the *Condominium Act*, the Province of Ontario has set up the Condominium Authority Tribunal (the "CAT") to adjudicate specific condominium disputes. This new tribunal is expected to have exclusive jurisdiction to hear, and make legally binding and enforceable decisions on, certain condominium disputes. It is important to note that the CAT will not have jurisdiction over every condominium dispute. Only those over which it is given jurisdiction by regulation.

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As of now, the only matters delegated to the CAT pertain to disputes regarding a corporation's records (under section 55 of the *Condominium Act*). It is interesting to note that, even when the dispute to be adjudicated is between two owners (or occupants), the parties commencing the application will have to notify the corporation.

If the CAT is eventually granted the required jurisdiction, the Tribunal will have the authority to:

- Order someone to comply with the legislation or governing documents;
- Order someone to do or not to do something over which the tribunal has jurisdiction;
- Order someone to pay damages of up to \$25,000 (which happens to be the Small Claims Court jurisdictional limit);
- Order a party to pay the legal costs of the other party;

- Order a party to pay the cost of the tribunal (this is different from the cost of the other party);
- Order any other relief the Tribunal considers fair in the circumstances.

Any order for costs, penalty or compensation will have to be paid within 30 days of the tribunal's decision (unless ordered otherwise). Corporations will be able to add to a unit's common expense any monetary award it obtained. Similarly, an owner will be able to set-off any monetary award it obtained against the contributions payable by the unit. This means that an owner could get a break and not have to pay his or her common expenses until he has recovered the amount the corporation was ordered to pay him/her.

The CAT will not have jurisdiction:

- Over disputes involving condominium managers or builders;
- Over disputes between two corporations sharing assets or common elements;
- Over disputes pertaining to easements or involving occupier's liability (when someone gets injured on common elements);
- To make an order permanently evicting someone;
- Over disputes arising from liens.

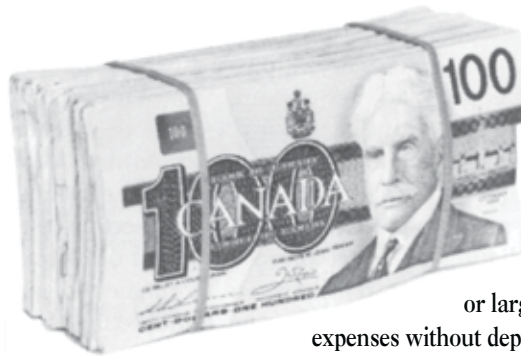
For now, and until the Tribunal's jurisdiction is expanded, all other disputes must be dealt with outside of the tribunal, through existing mechanisms. It may therefore not be wise to delay existing compliance matters in the hope to have the CAT adjudicate upon them.

Conclusion

Ready or not, the condominium industry is changing! Many changes were implemented on November 1st, 2017 and there are many more coming. Only time will tell whether these new requirements will fulfill their purposes. Condominium corporations should consult with legal counsel to ensure they are complying with their obligations. ■

Joe Duquette is a lawyer at Gowling WLG, focusing his practice on condominium law. Joe is also a director at his condo. The preceding article is adapted and reprinted with permission from CondoAdviser.ca.

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