

March 10, 2025

**Ministry of Public and Business Service Delivery**

Policy and Governance Branch  
6<sup>th</sup> Floor, 56 Wellesley St. W.  
Toronto, ON  
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**Attn: Kate Krestow, Manager, Strategic and Condo Policy Unit**

**Re: Consultation on Proposed Regulations Regarding Condominium Owners' Meetings and Expansion of the CAT's Jurisdiction to include Owners' Meetings**

On behalf of the Canada Chapter of the Community Associations Institute (CAI) Canada, we are writing in response to the Ministry's regulatory impact analysis for proposal number 25-MPBSD001.

CAI is an international membership organization dedicated to building better communities. CAI Canada is a leading authority in Canada for education, resources and advocacy related to condominiums. Our mandate is to support and represent the interests of unit owners, boards of directors and professionals engaged in the management, governance and legal aspects of shared condominium living.

CAI Canada's Advocacy Committee recently reviewed the Ministry's Proposed Regulations Regarding Condo Owners' Meetings and Expansion of the Condominium Authority Tribunal's Jurisdiction to Include Owners' Meeting. We are pleased to provide the Ministry with our input and recommendations regarding the proposal.

**Subsection 46(5), Regarding the Requisition Form**

In addition to the proposed changes by the Ministry to the requisition form, we recommend that the new requisition form also be amended to include the subject matter of the requisition meeting (Topic of the Requisition) prominently at the top of each Signatures of Eligible Unit Owners page (the "**Signature Page**"). Currently, the subject matter of the requisition is listed only on the cover page of the requisition form, which is followed by Signature Pages where owners provide their names, unit numbers, indication of whether their unit is owner-occupied, and signatures.

The current format of the requisition form leaves the requisition process vulnerable to potential misuse by individuals who may obtain signatures under false pretenses. For example, there is little to prevent the separation of cover page of the requisition form from the Signature Pages, allowing the Signature Pages to be attached to a different requisition form. This creates a risk that owners may be deceived into signing the Signature Page of a requisition form without a

clear understanding of the purpose of the requisition meeting. Indeed, there have been numerous instances where owners were misled in this manner.

By including the subject matter of the requisition meeting at the top of each Signature Page, the process would be significantly safeguarded. This amendment would ensure that owners signing the requisition form are fully informed and aware of the meeting's subject matter, thereby promoting transparency and protecting the integrity of the requisition process.

Similarly, each unit owner's signature should be dated to ensure that old Signature Pages are not being re-used in subsequent requisitions without the unit owner's knowledge. This would require a minor modification to the form.

### **Proposed Amendments to O. Reg.179/17 (Condominium Authority Tribunal) Expanding the Jurisdiction of the Tribunal to Include Disputes Relating to Owners' Meetings**

We have significant concerns regarding the proposed expansion of the Condominium Authority Tribunal's (CAT) jurisdiction to include meetings of unit owners. A delicate balance must be maintained between: (a) ensuring that owners have accessible and affordable avenues for justice in situations where condominium boards fail to conduct owner meetings in strict compliance with the applicable law; and (b) protecting condominium corporations from governance paralysis caused by litigious or frivolously disgruntled owners challenging the outcomes of meetings without genuine merit.

CAI's membership includes a substantial number of Ontario lawyers who specialize in condominium law. Consultations with these professionals reveal that instances of owners disputing the outcomes of meetings unreasonably and without legitimate grounds far exceed instances of boards of directors failing to conduct meetings substantially in accordance with legal requirements.

While minor irregularities in conducting meetings are not uncommon, these irregularities rarely, if ever, affect the substantive outcome or overall fairness of the meetings.

Currently, if an owner wishes to challenge the validity of a meeting of owners, or the decisions of a chairperson during such a meeting, they must file an application before the Superior Court of Justice, which involves considerable financial and time commitments. While this may deter some owners from pursuing disputes, it also ensures that applications are generally rooted in legitimate concerns. In our opinion, this remains the appropriate forum.

If the CAT's jurisdiction is expanded to include challenges to the validity of owners' meetings, including director elections, there is a significant risk of a surge in meritless applications from unit owners who have mistaken beliefs about how condominium meetings ought to be conducted (for example, many condominium unit owners are distrustful of the use of proxy forms for voting at meetings). The ease and minimal cost associated with accessing the Tribunal could inadvertently encourage frivolous claims, placing additional strain on condominium corporations. This will increase legal costs and make being a director less desirable. Furthermore, frequent CAT applications could result in escalating legal costs and raise governance concerns, as the corporation's board may face uncertainty during the application process. For example, if a CAT application is filed challenging the validity of director elections following an Annual General Meeting (AGM), questions arise as to whether the elected directors' authority is effectively frozen from making major decisions, or if the board of directors can continue functioning normally until a decision is rendered by the Tribunal.

While the Ministry's objective of improving access to justice for unit owners is commendable, it is equally important to address the potential misuse of this system, which could have significant negative implications for condominium corporations across the province that almost certainly outweigh the benefit. To mitigate these risks, we advise against allowing such a wide-ranging group of concerns related to meetings to be added to the CAT's jurisdiction.

If, however, this is to proceed against our recommendations, we respectfully propose the following safeguards to ensure a balanced approach that fosters accessibility while preventing frivolous claims:

1. **Limited Initial Expansion:** We recommend that the initial expansion of the CAT's jurisdiction to owners' meetings be limited exclusively to requisition meetings. The jurisdiction should not be extended to include other owners' meetings, such as Annual General Meetings (AGMs), for a period of at least 12 months. This phased approach will allow sufficient time to evaluate the impact of the jurisdictional expansion to requisition meetings before considering further extensions. As justification for this time period, we note that in the first year of the CAT having jurisdiction over records, there were only 20 reported decisions, and none of those were released in the first six months of the year. It will take time to understand the implications of the scope expansion.
2. **Owner Participation Threshold:** If the CAT's jurisdiction is eventually expanded to encompass all owners' meetings, we strongly recommend the implementation of a threshold requiring at least 15% owner participation for such applications to proceed. Similar to the requisition meeting requirements, this threshold would ensure that applications are grounded in some level of support and validity, preventing baseless claims from moving forward without merit.
3. **Expedited Application Process:** For applications falling under this expanded jurisdiction, we recommend an expedited process in which applications must be filed promptly after the meeting (perhaps within 30 days, rather than within the currently allowed two year period), and upon filing by the requisite 15% of owners, the negotiation and mediation stage is bypassed, proceeding directly to an expedited adjudication / decision by the Tribunal. This streamlined process will allow voting disputes to be resolved promptly, ensuring that new elections can be held without delay.

By adopting these safeguards, the Ministry can strike an appropriate balance between providing unit owners with improved access to justice and protecting condominium corporations from unnecessary litigation and governance challenges.

We thank you for your time and consideration of this submission.

Sincerely,

Yulia Pesin and Sally Thompson

On behalf of the CAI Canada Advocacy Committee