



LICENCE APPEAL TRIBUNAL

ANNUAL REPORT

2004 – 2005

**Office of
the Chair**

**Bureau du
président**

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Tribunal**

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June 30, 2005

The Honourable Jim Watson
Minister
Ministry of Consumer and Business Services
35th floor
250 Yonge Street
Toronto, ON
M5B 2N5

Dear Minister:

RE: Licence Appeal Tribunal Annual Report

I am pleased to present to you the Licence Appeal Tribunal's Annual Report for the fiscal year 2004-2005.

Yours truly,

Carl F. Dombek, B.A., LL.B.
Chair

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CHAIR'S MESSAGE

"If we are striving, if we are working, if we are trying, to the best of our ability, to improve day by day, then we are in the line of our duty." Heber J. Grant

I am proud to report that the Licence Appeal Tribunal (LAT) is within our line of duty. In fact, as chair, I have never before been more proud of the work we do than I am at the conclusion of the 2004-05 fiscal year. This annual report is truly a celebration of success.

In keeping with this government's commitment to deliver cost-effective, high-quality services to the people of Ontario, the LAT not only served the public and our stakeholders in a timely, dedicated way, we streamlined processes even further, improved pre-hearing procedures and achieved even greater operational efficiency.

In 2004-05, we made numerous enhancements to our practices to ensure that parties appearing before the LAT are assured that we are a fair and courteous adjudicative agency. These improvements include a new protocol of professionalism that our vice-chairs, members and administrative employees follow when dealing with attendees throughout the hearing process. Further, to ensure that LAT proceedings are conducted in a transparent manner, I made certain that no LAT members have access to advanced copies of the parties' submissions before the scheduled hearings.

To determine how the hearing process could be further streamlined to achieve greater cost-efficiency, I decided to become more personally involved in the conduct of hearings. I discovered that some matters that usually necessitated several hearing days could be shortened or even settled earlier if mediation is offered before the scheduled hearing dates. As a result, I directed my staff to schedule a larger number of pre-hearings and assigned members with a background and expertise in mediation to conduct them. Out of 129 pre-hearings conducted, 67 led to early settlements, eliminating the need for hearings altogether. This unique approach garnered a success rate of 52 per cent!

Despite our best efforts to streamline processes, 2004-05 remained fiscally challenging. While the number of appeals decreased slightly, a larger number of complex matters were heard, thus increasing the length of certain hearings and the costs to LAT. In order to operate within our budget envelope, we successfully implemented revisions to our guidelines for per diems and expenses, thanks to our members' co-operation and commitment to achieving best results. I also assigned only one member with a legal background to hear appeals under the Child and Family Services Act, the Day Nurseries Act and the Intercountry Adoption Act, which will greatly reduce costs to the parties.

The LAT continued to play a leadership role in the tribunal community. An increased number of ministries consulted us on our best practices with a view to adopt some of them, confirming our reputation for efficiency. In 2004-05, LAT was selected as the appeal body under new legislation/regulations that will come into effect in fiscal 2005-06 and 2006-07. The LAT mandate is called upon to continue expanding in the years to come and we look forward to meeting that challenge.

LAT is such an efficient adjudicative tribunal that I had an opportunity to conduct outreach to inform outside groups on the role and mandate of the tribunal and its accomplishments. I was well received in the community and I plan to do more of this in the coming year. In order to further raise our profile, I am designing an informative and educational package to enrich my presentations.

In June 2004 I also had the opportunity to co-host the Council of Canadian Administrative Tribunals' third international conference. The theme was "Bringing Administrative Justice to the People of the World: Learning from Each Other." We certainly met our objective to bring the world's leading administrative justice practitioners together to inform our community on the latest research and thinking related to the role, procedures, practice and functions of agencies, boards and commissions. It was a successful and well-attended event in which we were able to participate, learn and inform others.

Other events included timely orientation sessions to welcome and educate several new vice-chairs and members who joined the tribunal in 2004-05. We also held our annual continuing education meeting in February 2005 for all members. Its success is reflected in a letter I received from one of newest members, who wrote, in part, "I was pleased to be able to participate in this well-planned and most relevant event. I learned a great deal from the excellent panel and the presentation on decision writing was certainly helpful to me. It was clear to me from our guest speaker, Mr. Rob Dowler's remarks that the LAT is held in very high regard." (Note: Mr. Dowler is the Assistant Deputy Minister, Policy and Consumer Protection Services Division, Ministry of Consumer and Business Services. He spoke about new government initiatives impacting on LAT.)

While new members joined us, 2004-05 also marked the final term of a number of long-term members. Sadly, two of our most dedicated members, Barbara Fraser and Charles Sandiford, passed away during the year after courageous battles with cancer. We, their staff and colleagues, will fondly remember them and continue to value their contributions to the tribunal.

I wish to commend the LAT's vice-chairs, members and administrative staff for their professionalism, hard work and commitment to justice and fairness. They consistently demonstrate the highest level of customer service standards and in a financially prudent fashion. I couldn't ask for a more conscientious group of colleagues. Together, we have achieved great performance results again in 2004-05.

Finally, in February 2005 I was advised that the Lieutenant Governor in Council has re-appointed me as chair of the LAT for a second mandate of three years, effective May 1, 2005. This new term enables me to renew my commitment to serving the public and our stakeholders with fairness, respect and sensitivity by delivering the adjudicative and administrative services in the just, responsive and cost-effective manner that is expected of us. As Jonas Salk said, "The greatest reward for doing is the opportunity to do more." I look forward to doing even more to expand and improve our robust organization.

MANDATE, JURISDICTION AND ORGANIZATION OF THE LICENCE APPEAL TRIBUNAL

Role and Function

The LAT is an independent, quasi-judicial administrative tribunal. Its mandate is to receive appeals, conduct hearings, resolve disputes and render decisions on compensation claims and licensing activities regulated by the Ministry of Consumer and Business Services, the Ministry of Transportation, the Ministry of Children and Youth Services, the Ministry of Training, Colleges and Universities and the Ministry of Municipal Affairs and Housing.

The Licence Appeal Tribunal Act, 1999 created a single tribunal beginning April 1, 2000 to assume the mandate of four predecessors: the Commercial Registration Appeal Tribunal, the Licence Suspension Appeal Board, the Private Vocational Schools Review Board and the Child and Family Services Review Board licensing jurisdiction. The tribunal hears appeals across the province. As a quasi-judicial tribunal, it is subject to the rules of natural justice and the requirements of the Statutory Powers and Procedures Act. Those appointed to the tribunal work to conduct fair, efficient and impartial hearings during which they consider all evidence presented and make a decision with written reasons based on that evidence in a manner that protects the public.

Appeals to the tribunal can be made under 22 different statutes:

- Bailiffs Act – BA
- Building Code Act – BCA
- Business Practices Act – BPA
- Cemeteries Act – CA
- Child and Family Services Act – C&FSA
- Collection Agencies Act – CAA
- Consumer Protection Act – CPA
- Consumer Reporting Act – CRA
- Day Nurseries Act – DNA
- Discriminatory Business Practices Act – DBPA
- Funeral Directors and Establishments Act – FDEA
- Highway Traffic Act – HTA
 - Section 32(12)(b)(i) – Medical (MED)
 - Section 47(1) – Medical and Commercial Vehicle Operation’s Registration-Carrier (MCVOR)
 - Section 17(2),(3) – Commercial Vehicle Operation’s Registration (CVOR)
 - Section 48.3(2) – Administrative Driver’s Licence Suspension (ADLS)
 - Section 55.1(3) – Motor Vehicle Impoundment (MVIA)
 - Section 82.1 – Commercial Vehicle Impoundment and Suspension (CVIS)
 - Section 95(1) – Motor Vehicle Inspection Licence – Garage (GAR)
- Intercountry Adoption Act – IAA

- Loan Brokers Act – LBA
- Ministry of Consumer and Business Services Act – MCBS
- Motor Vehicle Dealers Act – MVDA
- Ontario New Homes Warranties Plan Act – ONHWPA
- Paperback and Periodical Distributors Act – PPDA
- Private Career Colleges Act – PCCA
- Real Estate and Business Brokers Act – REBBA
- Travel Industry Act – TIA
- Truck Transportation Act - TTA

Organization

The Lieutenant Governor in Council appoints all tribunal members. The chair is full-time, while the vice-chairs and members are part-time. These esteemed personnel come from all areas of Ontario and bring various backgrounds to their work. The chair is responsible for the overall operation and administration of the tribunal and provides guidance and leadership to the vice-chairs and members and direction to staff.

The tribunal is supported by staff engaged under the Public Service Act, 1999. They include the chief administrative officer and registrar, deputy registrar, administrative assistant and six hearings co-ordinators. The staff answer inquiries from applicants and members of the public and provide support to the tribunal appointees. They are responsible for the logistics in receiving appeals, scheduling hearings, preparing case-related materials, arranging hearing rooms, maintaining records and overseeing the release of decisions.

How to Contact Us

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Website: www.lat.gov.on.ca

CHAIR, VICE-CHAIRS AND MEMBERS OF THE LICENCE APPEAL TRIBUNAL (2004-05)

Chair

Carl F. Dombek, B.A., LL.B.

Vice-Chairs

Thomas Dastous
Fitzpatrick, Bruce F.
Alan E. Garbe
Marjorie L. Hiley
Derek Israel
Kenneth S. Jepson
Daniel Laurin
John H. Macintosh
William M. McIntosh
Maxwell L. Rotstein
Irvin H. Sherman, Q.C.
Douglas R. Wallace
Terrence A. Wardrop, Q.C.
Jane Weary

Members

Hakam T. Abu-Zahra, M.D.
Antoine Albert Aouad, M.D.
Elizabeth Bennett-Martin
Donald Benninger
John T. Biehn, M.D.
Barbara Bjarneson
Dino P. Bottero
Victor H. Braney
Kerr W. Clark, M.D.
Patrick Graham Coffey, M.D., F.R.C.S.(C).D.
(Obs.) R.C.O.G.
John Corsi
Greg Crompton
Simon Dann
Malcolm Fealing
Kevin Flynn, M.D.
A. Barbara Fraser
Wayne M. French
Gurdev S. Gill
Graeme Goebelle
William A. Gray, M.D.

Christopher D.J. Hacio
Donald J. Harterre, M.D.
Joe Hewitt
David Hurst, M.D.
Maxim Jean-Louis
Jim Kennelly
Raymond Kolynchuk
Kenneth W. Koprowski
Terrence V. Lorette
Roy Melvin, M.D.
Nives Montano
Malcolm Montgomery
Keith Penner
Al Pilutti
André Pinard
Nick Pinto
Maurice G. Power
Kenneth S. Raven
Harjinder Sahdra
Anthony Saldanha
Charles J. Sandiford
William E. Settatree
Elizabeth Sproule
Normal William Struthers, M.D.
Philip Warren Sweetnam
Cecilia J. Taylor
David Ian Turnbull, M.D.
Bruce L. Wright

GOALS AND PERFORMANCE

The critical success goals of the Licence Appeal Tribunal are timeliness, optimum cost-efficiency, quality and consistency. At the tribunal, the key business activities that affect these goals are monitored, the results measured and improvements made as identified.

There are four phases to the operations of the tribunal – the processing of appeals, the scheduling of hearings, the holding of hearings and the rendering of decisions. Each phase has specific time lines and these vary according to the type of appeal.

The tribunal tracks its performance monthly. Statistical charts and graphs are distributed to the minister and deputy minister of those ministries that administer the statutes that come under the tribunal's jurisdiction.

Intake of Appeals

Employees have from one to three weeks to:

- Review the appeal to ensure the applicant has grounds to appeal;
- Verify that the required fee and supporting documents have been filed with the tribunal within the prescribed period;
- Send copies of the appeal to the related program area or ministry;
- Consult the program area on the number of hearing days and any witnesses required;
- Forward the completed appeal file to the hearings scheduler.

Scheduling of Hearings

The hearings scheduler has a maximum of five days to schedule matters. There are specific legal or administrative time lines to guide the timing of hearings as follows:

- | | |
|--|-----------------|
| • Administrative Driver's Licence Suspension | 15-20 days |
| • Orders under the Child and Family Services Act | 60 days |
| • Commercial Vehicle Operator's Registration | 60-90 days |
| • Commercial Vehicle Inspection Suspension | 30 days |
| • Order under the Day Nurseries Act | 60 days |
| • Order under the International Adoption Act | 60 days |
| • Medical suspension | 30 days |
| • Motor Vehicle Impoundment Orders | 18-20 days |
| • Motor Vehicle Inspection Licence (Garage) | 30-60 days |
| • Proposals / Decisions under various statutes administered by the Ministry of Consumer and Business Services, self-managed industries and the Ontario New Home Warranty Program | within 120 days |

Holding of the Hearing

The length of the hearing depends on how much time the parties require to present evidence and make their arguments. Hearings can range from half a day to 15 days.

However, the chair has established specific time frames for the completion of hearings under a number of statutes, as authorized under section 16.2 of the Statutory Powers Procedure Act. These time frames have been set to ensure there are no delays in the process and also as a performance measure to ensure that our appeal process average turnaround time does not exceed six months.

Rendering of Decisions

The tribunal's goal is to release its decisions to the parties to a proceeding within a maximum of 30 days after the hearing. The vice-chairs and members are required to submit their draft decisions for review within 23 days following the completion of a hearing. For some of the tribunal programs there are shorter deadlines:

- | | |
|---|------------|
| • Administrative Driver's Licence Suspension | 1 day |
| • Commercial Vehicle Impoundment and Suspension | 14-28 days |
| • Medical Suspension | 7 days |
| • Motor Vehicle Impoundments | 1-3 days |
| • Motor Vehicle Inspection Licence (Garage) | 14-28 days |

Professional Development

A high priority is placed on professional development and training for tribunal vice-chairs, members and staff. The tribunal conducts its own orientation sessions for newly appointed vice-chairs and members on the hearing and administrative process and on writing decisions. New appointees sit as side panel members on three hearings. Working under the panel chair they learn how to conduct hearings and to write decisions for the Licence Appeal Tribunal. New vice-chairs are offered an opportunity to attend the Adjudicator Training Course sponsored by the Society of Ontario Adjudicators and Regulators. Management Board of Cabinet also has an orientation session for new appointees.

The tribunal chair attempts to hold at least two continuing education meetings a year with presentations from representatives from other tribunals, law firms and the Ministry of the Attorney General. Topics covered include the effective conduct of hearings and the writing of decisions. Representatives from areas that bring appeals to the tribunal have been invited to provide background on their industry.

Tribunal staff are encouraged to take up learning opportunities as part of their individual performance development and learning plans.

ACCOMPLISHMENTS

2004-05

Review of Business Practices Towards Greater Effectiveness and Cost-Efficiency

During fiscal 2004-05, the tribunal completed the review of all administrative processes related to preparing and releasing decisions. All administrative staff took part in this series of four meetings.

The tribunal also implemented new guidelines and made changes to a number of administrative procedures, including implementing a protocol for all members and employees to follow with hearing attendees to ensure that all parties recognize the tribunal as a fair and courteous adjudicative agency. The protocol was distributed to all the ministries and delegated administrative authorities appearing before the tribunal.

In line with the chair's commitment to achieve greater cost-efficiency, the number of panel members to hear appeals under the Child and Family Services Act, the Day Nurseries Act and the Intercountry Adoption Act was reduced from three to one. This initiative will help the parties and the tribunal reduce hearing preparation costs. The tribunal also started hearing two to three short hearings per day to address budget constraints.

The format of pre-hearings was changed after receiving constructive feedback from a number of members who conduct pre-hearings and from pre-hearing participants. A large number of pre-hearings used to proceed by telephone. Since January 2005, pre-hearings proceed in person when all the parties reside in Toronto or its vicinity. The same applies to out-of-town pre-hearings when the panel chair and the parties reside in the same location in which the pre-hearings are to take place. Pre-hearings in person are more conducive to early settlements and can better assist parties in narrowing down the issues.

The chair also put a stronger emphasis on settling matters before they proceed to hearings. To that end, the tribunal conducted 129 pre-hearings, 67 of which led to early settlements. Preparedness on the part of all the parties facilitates the discovery process and helps everyone engage in fruitful discussions and negotiations.

The tribunal employees' workload was also further streamlined when we provided our summons template to program areas to complete. Thus, the summons continue to be signed by the chair but the administrative work related to their preparation has been eliminated. As well, the hearings submissions are no longer photocopied and distributed to the panel chairs in advance of the hearings.

The tribunal implemented an interactive voice-mail system to enhance its customer service delivery. In 2004-05, the tribunal received more than 5,000 phone inquiries. The new system has effectively reduced the number of inquiries to be handled by employees by close to 50 per cent.

LAT Internal Training Initiative

On February 24, 2005, the chair held his annual continuing education meeting. A panel composed of three guest speakers representing program areas conveyed to LAT members what counsel can expect from the LAT hearing chair. The Assistant Deputy Minister of Policy and Consumer Protection Services Division, Ministry of Consumer and Business Services, talked to the participants about new government initiatives that affect LAT. In addition, a decision-writing workshop was held in the afternoon. The feedback was extremely positive and many members found the event useful and satisfying.

New On the LAT Website

To respond to the increasing volume of case briefs regularly relied upon by legal counsel appearing before the tribunal, a bench brief was made available on the tribunal's website, effective June 21, 2004. The bench brief consists of 22 important cases heard by the tribunal, the Superior Court of Justice, the Supreme Court of Canada and/or other jurisdictions. The bench brief is also available to the parties to a proceeding in the hearing room. Therefore, it is no longer necessary for counsel representing a party to provide the hearing chair with a photocopy of the said cases. This saves both time and money to all parties and the tribunal.

Outreach Initiatives

The Niagara Peninsula Children's Centre invited the chair to make a presentation on giving expert evidence. He also made a presentation on the role and mandate of the tribunal and the importance of mediation to students in the Alternative Dispute Resolution program in the School of Continuing Education, University of Toronto. These were such successful discussions that he is designing a formal presentation package for future speaking engagements intended to educate and raise the profile of the tribunal.

STATISTICAL SUMMARY

During the last three fiscal years, the tribunal has maintained the pace established in the two previous fiscal years, but some interesting trends are becoming apparent, such as the increase in the number of medical appeals. Though there were fewer appeals in 2004-05, the number of complex matters requiring several hearings days increased. Lengthy matters related mostly to appeals under the Child and Family Services Act. The decrease in the number of appeals filed before the tribunal may be due to successful negotiations between registrants/consumers and the program areas, thus eliminating the need to issue proposals and decisions.

	2002-03	2003-04	2004-05
Number of hearing requests received	564	740	635
Number of hearing days scheduled	911 days	916 days	886 days
Number of hearing days heard	322 days	373 days	380 days
Number of decisions/orders released	549	610	599
Number of pre-hearings held	95	97	129
Average length of hearing	.84 days	.79 days	.85 days
Average length of time to release decisions	12 days	14 days	15.4 days

The percentage of appeals by statute is as follows:

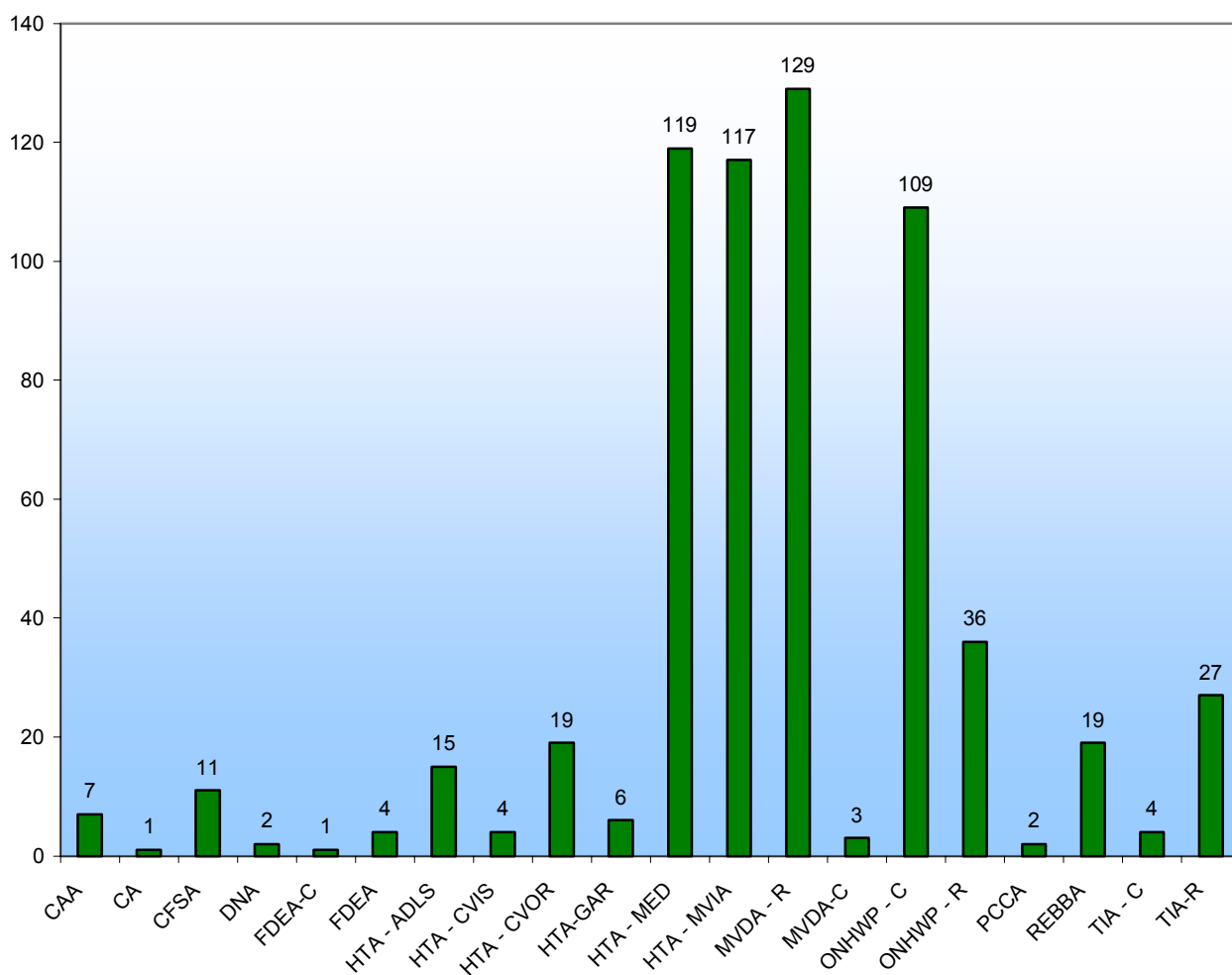
	2002-03	2003-04	2004-05
Bailiffs Act	1%	0%	0%
Collection Agencies Act	0%	1%	0%
Child and Family Services Act	0%	0%	2%
Day Nurseries Act	0%	0%	0%
Funeral Directors and Establishment Act			
– Claim	0%	0%	0%
– Registration	0%	0%	1%
Highway Traffic Act	45%	53%	44%
Motor Vehicle Dealers Act			
- Claim	1%	0%	0%
- Registration	18%	19%	20%
Ontario New Home Warranties Plan Act			
- Claim	17%	15%	17%
- Registration	7%	7%	6%
Private Career Colleges Act	0%	0%	0%
Real Estate & Business Brokers	1%	0%	3%
Travel Industry Act			
- Claim	4%	0%	1%
- Registration	5%	5%	4%

- Due to the rounding of percentages, the total percentage for each year may not total 100 per cent
- The total number of appeals by year for each statute is shown in the chart below. Refer back to page 3 for the full name of the statutes.



Licence Appeal Tribunal

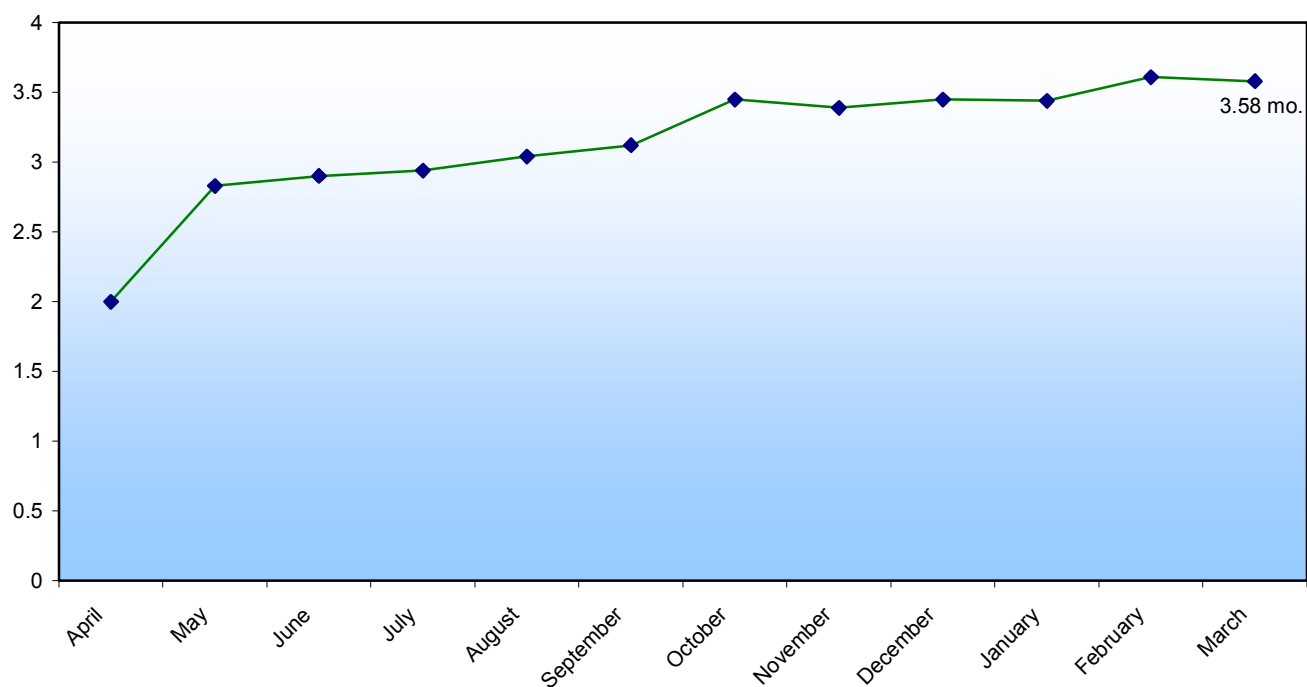
Total # of Appeals Received - Fiscal Year 2004-2005 = 635
Breakdown by Statutes & Types of Appeals as at March 31, 2005





Licence Appeal Tribunal

**Turnaround Time by Month
for Fiscal Year 2004-2005 as of March 31, 2005**



FINANCIAL INFORMATION

2003-2004

Standard Account	2003-2004 Printed Estimates	Actual Expenditures
Salaries and Wages	\$ 633,800	\$ 591,753
Benefits	113,600	69,856
Transport and Communications	94,200	80,731
Services	282,000	358,119
Supplies and Equipment	35,900	44,499
TOTAL	<u>\$1,159,500</u>	<u>\$1,144,957</u>
Revenue		\$ 70,733

FINANCIAL INFORMATION

2004-2005

Standard Account	2004-2005 Printed Estimates	Actual Expenditures*
Salaries and Wages	\$ 635,400	\$ 626,940
Benefits	97,700	87,699
Transport and Communications	94,200	67,012
Services	536,800	573,546
Supplies and Equipment	35,900	19,697
TOTAL	<u>\$1,400,000</u>	<u>\$1,374,894</u>
Revenue		\$ 63,705

Note:

* The actual expenditures for 2004-2005 are interim year-end actuals. The final year-end figures will be tabled in the Legislature in September.

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