



LICENCE APPEAL TRIBUNAL

ANNUAL REPORT

2010-11

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the Chair**

**Bureau du
président**

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Tribunal**

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June 20, 2011

The Honourable Harinder Takhar
Minister
Ministry of Government Services
Suite 4320 Whitney Block
99 Wellesley Street West
Toronto, ON M7A 1W3

RE: Licence Appeal Tribunal 2010-11 Annual Report

Dear Minister:

I am pleased to present to you the Licence Appeal Tribunal's Annual Report for fiscal year 2010-11.

Yours truly,

A handwritten signature in black ink, appearing to read "D. Gregory Flude".

David Gregory Flude
Chair

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MESSAGE FROM THE CHAIR

I have the privilege of reporting on the changes and progress achieved by Tribunal in fiscal year 2010-11, under the leadership of its former Chair, Mrs. Lynda Tanaka.

I wish to express my thanks, on behalf of Mrs. Tanaka, to Tribunal Members who have given so generously of their time in the public service and who have continued to support the Tribunal in delivering on its mandate over the past year.

This report outlines briefly what has been achieved by the Tribunal in the Operational and Financial Performance sections. I would like to draw your attention to some of the key issues.

In 2011-12, the Tribunal will assume jurisdiction over matters that are currently before the Alcohol and Gaming Commission of Ontario. The Tribunal has also been designated as the appeal body under the *Accessibility for Ontarians with Disabilities Act, 2005* and the *Retirement Homes Act, 2010*. The Tribunal devoted significant resources over the course of 2010-11, to support activities that were critical to the mandate expansion.

In keeping with the government's directions on agency accountability and governance, the Tribunal worked closely with other adjudicative agencies, and with the Ministry of Government Services, to ensure that it is well positioned to meet the requirements prescribed under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*. The Tribunal has also continued its efforts in reviewing and revising its business practices and processes, to ensure compliance with Management Board directives, and other policies or guidelines that apply to agency operations.

The Tribunal implemented a new administrative support structure in summer 2010, to support its efforts to meet changing business needs and to modernize its business processes to reflect best practices in the tribunal sector. To enhance accessibility of the services it provides to the public, the Tribunal has started its plan to launch a new website by summer 2011, and to revise the content and format of its existing forms and public literature. The Tribunal has also been working closely with the Ministry of Government Services to move its physical premises in Toronto from 1 St. Clair Avenue West to 20 Dundas Street West, in summer 2011. One of the key objectives of this relocation is to ensure that the new facilities will be in full compliance with health and safety and accessibility requirements.

D. Gregory Flude
Chair

MANDATE, JURISDICTION AND ORGANIZATION

Mandate

The Licence Appeal Tribunal (the “Tribunal”) is an independent adjudicative tribunal of the Ministry of Government Services. It was created under the *Licence Appeal Tribunal Act, 1999* to hear appeals and render decisions respecting compensation claims and licensing activities regulated by various ministries including the Ministry of Children and Youth Services, the Ministry of Community Safety and Correctional Services, the Ministry of Consumer Services, the Ministry of Municipal Affairs and Housing, the Ministry of Training, Colleges and Universities, and the Ministry of Transportation.

Jurisdiction

The Tribunal is subject to the rules of natural justice and the requirements of the *Statutory Powers Procedure Act*. Members appointed to the Tribunal conduct fair and impartial hearings during which they consider all evidence presented and make a decision with written reasons. Most Tribunal decisions are subject to appeal to the Superior Court of Justice (Divisional Court). All Tribunal proceedings are subject to judicial review under the *Judicial Review Procedure Act*.

There are currently 22 statutes that provide rights of appeal to the Tribunal. The acronym of each statute and/or type of appeal is listed on page 14 for easy reference throughout this report.

Organization

The Lieutenant Governor in Council appoints Tribunal Members and designates one as Chair and some as Vice-Chairs. The Chair is full-time, while the Vice-Chairs and Members are part-time. The Chair provides guidance and leadership to the Vice-Chairs and Members, and is accountable to the Minister of Government Services for the performance of the Tribunal in fulfilling its mandate, including carrying out the roles and responsibilities assigned to the Chair by Management Board Directives, the *Licence Appeal Tribunal Act, 1999*, and a Memorandum of Understanding between the Minister of Government Services and the Chair.

Profile of Members

Tribunal Members reside in various parts of the province, are active in their communities, and come from different cultural backgrounds. They are fair, accomplished adjudicators who bring a wealth of experience to the Tribunal. Some Tribunal Members have experience as adjudicators in other tribunals or as Deputy Judges; others have specific training and experience in alternative dispute resolution. A number of Tribunal Members are legally qualified medical practitioners who preside at hearings under specific

provisions of the *Highway Traffic Act*, on matters related to licensing issues and drivers' medical conditions. All Members designated as Vice-Chairs are lawyers.

Tribunal Members are not employees of the provincial government.

Staff

Tribunal staff are appointed under the *Public Service of Ontario Act, 2006*. The staff complement includes a Chief Operating Officer, an Operations Manager, two Research and Operations Analysts, four Case Management Officers, an Administrative Coordinator, and a Scheduler/Administrative Assistant.

The Chief Operating Officer manages the day-to-day operations of the Tribunal and provides support to the Chair. Tribunal staff are responsible for supporting various aspects of the appeal process, including the intake of appeals, scheduling of hearings, preparation of case-related materials, and the release of Tribunal orders and decisions.

CHAIRS, VICE-CHAIRS AND MEMBERS (2010-11)

Chair

Lynda C.E. Tanaka, B.A., LL.B., FCI Arb., C.Arb. ICD.D

Chair, January 24, 2008 to May 15, 2011

Acting Chair, January 24, 2007 to January 23, 2008

Vice-Chair, October 5, 2006 to January 23, 2008

David Gregory Flude, L.L.B.

Chair, May 16, 2011 to May 15, 2012

Vice-Chair, June 22, 2005 to May 15, 2011

<i>Vice-Chairs</i>		<i>Term</i>	
Bennett-Martin, Elizabeth	March 19, 2003	-	May 12, 2010
Budweth Mingay, Christina	February 4, 2009	-	February 3, 2011
Cassidy, Patricia	October 5, 2006	-	October 4, 2012
Cheng, Shu-Tai	November 15, 2006	-	November 14, 2011
D'Amours, Marc	November 15, 2006	-	November 14, 2011
Diamond, Andrew	June 1, 2005	-	December 15, 2013
Gahir, Harinder	November 15, 2006	-	November 14, 2011
Garbe, E. Alan	April 1, 2000	-	March 31, 2014
Koprowski, Kenneth W.	April 1, 2000	-	March 31, 2014
Macklin, Richard	October 5, 2006	-	October 4, 2012
Proulx, Chantal	November 15, 2006	-	November 14, 2011
Sanford, Laurie	June 22, 2005	-	June 21, 2013
Sproule, Elizabeth	April 1, 2000	-	March 31, 2014
Sweeney, Terrance	August 12, 2008	-	August 11, 2013
Wallace, Douglas R.	January 13, 2005	-	January 12, 2013
Weary, Jane	June 23, 2004	-	June 22, 2014
<i>Members</i>		<i>Term</i>	
Abu-Zahra, Hakam T.	August 21, 2003	-	August 20, 2014
Aouad, Antoine A.	April 1, 2000	-	March 31, 2014
Benninger, Donald	June 12, 2002	-	June 12, 2014
Blais, Geneviève	May 7, 2008	-	May 6, 2013
Borenstein, David	November 3, 2010	-	November 2, 2012
Caryll, David B.	April 16, 2008	-	April 15, 2013
Coffey, Patrick G.	February 3, 2003	-	February 2, 2014
Dann, Simon	April 1, 2000	-	June 16, 2014
Dreyzin, Vadim	November 3, 2010	-	November 2, 2012
Fisher, Garry	November 5, 2008	-	September 2, 2013
Flynn, Kevin	May 28, 2003	-	May 27, 2014
Furlong, F. Wayne	November 3, 2010	-	November 2, 2012
Hurst, David	August 1, 2003	-	July 31, 2014
Kennelly, Jim	June 17, 2004	-	June 16, 2012
Melvin, Roy	April 19, 2000	-	July 15, 2010 (resigned)
Montano, Nives	April 1, 2000	-	March 25, 2014
Penner, Keith	September 17, 2004	-	September 16, 2014
Selby, Ken	April 2, 2008	-	April 1, 2013
Spencer, Mary Ann	May 30, 2006	-	May 29, 2014
Turnbull, David Ian	August 21, 2003	-	August 20, 2014

PERFORMANCE TARGETS

The Tribunal's performance measure is to complete the appeal process, from start to end, within an average of six months. The Tribunal's appeal process average turnaround time for 2010-11 is 3.38 months.

To support the achievement of this performance measure, specific timeframes for completion of hearings under each of the twenty-two statutes have been set as authorized under section 16.2 of the *Statutory Powers Procedure Act*. These timeframes are set to ensure there are no institutional delays in the process that might deprive the applicant of procedural fairness.

In addition, the following guidelines or targets have been established as part of the process:

- Pre-hearing dates are to be set within five days of the completion of the intake process.
- Specific timeframes of 90 days or less for the timing of the holding of the hearing have been set for nine different types of appeals. For the balance of the appeals, the pre-hearing and/or hearing is to be held within 120 days of the appeal being received.

Appeal Types

Administrative Driver's Licence Suspension	15-20 days
Orders under the <i>Child and Family Services Act</i>	60 days
Commercial Vehicle Operator's Registration	60-90 days
Commercial Vehicle Impoundment and Suspension	30 days
Orders under the <i>Day Nurseries Act</i>	60 days
Orders under the <i>Intercountry Adoption Act, 1998</i>	60 days
Medical Suspension (Driver's Licences)	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 Services (including self-managed industries)	Within 120 days

- Decisions are to be released within 30 days following the completion of the hearing, with the exception of five specific types of appeals where there are statutory guidelines governing the release of decisions as set out in the table below:

Appeal Types	
Administrative Driver's Licence Suspension	1 day
Commercial Vehicle Impoundment and Suspension	14-28 days
Medical Suspension (Driver's Licences)	7 days
Motor Vehicle Impoundment Orders	1-3 days
Motor Vehicle Inspection Licence (Garage)	14-28 days

These guidelines or targets are specific to the statute under which the appeal is brought. They are not specific to the length of the hearing (i.e. the amount of evidence that must be considered in arriving at a decision) or the complexity of the issues that are involved in any one appeal.

Guidelines or targets are reviewed on an ongoing basis to allow proactive steps to be taken to address any emerging issues in a timely way.

OPERATIONAL PERFORMANCE (2010-11)

The Tribunal's statistical summary (see page 10) speaks to the Tribunal's overall performance in respect of the resolution of appeals.

In 2010-11, the Tribunal received 620 appeals and held a total of 497.5 hearing days. This caseload is consistent with that in 2009-10.

There has been a decrease in the number of decisions/orders released (574 in 2010-11, compared to over 700 in each of 2009-10 and 2008-09). The average length of time to release decisions/orders following the conclusion of the hearing process has been reduced to 12.16 days (from 15.16 days in 2009-10 and 16.42 days in 2008-09). The average turnaround time (the amount of time it takes for an appeal to be resolved after its receipt) has been reduced to 3.38 months in 2010-11 (from 3.5 months in 2009-10 and 3.78 months in 2008-09).

To support effective dispute resolution, the Tribunal continued to implement rigorous training strategies for its Members and its staff, and undertook a number of priority projects aimed at streamlining the appeal process.

Training sessions for groups of Members were held on multiple occasions this year to maintain the Tribunal's high level of expertise and knowledge. Two sessions were provided for all Members in October, 2010 and February, 2011, covering a broad range of topics relevant to the Tribunal's mandate and operations including the *Accessibility for Ontarians with Disabilities Act, 2005*, privacy guidelines, and the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*. Regular teleconferences were held for more focused training covering conflict of interest rules and procedural matters. In addition, Members took advantage of training provided by the Society of Ontario Adjudicators and Regulators.

Governance and Accountability

The Tribunal's 2010-11 Business Plan was approved by the Minister of Government Services in August 2010, and the 2011-12 Business Plan was submitted for approval on June 2, 2011. These plans, which outline strategic directions for the Tribunal over a

three-year period, will serve as the foundation for the Tribunal's priorities within the planning horizon.

Due in part to the appointment of a new Chair to the Tribunal in May, 2011, the Memorandum of Understanding between the Chair and the Minister, which sets out the accountability framework governing the roles and responsibilities of various parties, is currently under review.

Over the course of 2010-11, the Tribunal worked closely with the Ministry of Government Services to continue to strengthen its internal controls in keeping with the government's directions on agency accountability and transparency. Business practices and processes were reviewed and/or revised, with a view to ensuring strict compliance with government policies and directives, including the new Management Board Directive on Agency Establishment and Accountability which took effect on January 26, 2010, and the revised Management Board Directive on Travel, Meal and Hospitality Expenses which took effect on April 1, 2010. Necessary changes were made to the Tribunal's financial processes to support, and to ensure compliance with, the implementation of the Harmonized Sales Tax in July, 2010. Starting in 2010-11 Q3, the Tribunal, with support from the Ministry, has started reviewing its backoffice support framework including internal financial management processes.

In 2010-11, the Tribunal also worked closely with other adjudicative agencies, and with the Ministry of Government Services, to ensure that it is well positioned to meet the requirements for public accountability and governance accountability documents, as prescribed under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*.

The *Public Service of Ontario Act, 2006* imposes on members appointed by the Lieutenant Governor in Council obligations with respect to conflict of interest and political activity comparable to the obligations imposed on the public sector employees. In March, 2010, following consultations with Tribunal Members and discussions with staff from the Office of the Conflict of Interest Commissioner, the Tribunal submitted its proposed Conflict of Interest Rules to the Commissioner for approval. These Rules were approved in April, 2010.

Mandate Expansion

As an independent adjudicative tribunal with a broad mandate, the Tribunal can quickly, efficiently and in a cost-effective manner adapt to handle new statutory appeals, whether such appeals arise from existing legislation or from new legislative initiatives. This flexibility was demonstrated in 2010-11 by the planned designation of the Tribunal as the appeal body under six new statutes.

In 2010-11, the Tribunal led and/or participated in a wide range of policy coordination, financial planning and program development activities, to facilitate the transfer of adjudicative functions from the Alcohol and Gaming Commission of Ontario, and to

ensure readiness to hear appeals under the *Accessibility for Ontarians with Disabilities Act, 2005*.

The Tribunal has developed, and will have in place by summer 2011, the following procedures, tools and systems to support the implementation of these government priorities:

- Rules of Practice, including time-limited transition and interim Rules to ensure a seamless transfer of adjudicative functions from the Alcohol and Gaming Commission of Ontario, to take effect on July 1, 2011.
- New and/or revised forms and public literature, written in plain language and in an accessible format, to be made available to the public.
- Changes to the design of the Tribunal's case management system, to track these new types of appeals.

Modernization of Tribunal Operations

The Tribunal implemented a new administrative support structure in summer 2010, to support its efforts to meet changing business needs and to continue to modernize its business processes to reflect best practices in the tribunal sector.

Starting in 2010-11 Q3, the Tribunal has been working closely with the Ministry of Government Services to develop a plan to relocate its physical premises in Toronto, from 1 St. Clair Avenue West to 20 Dundas Street West, by June, 2011. One of the key objectives is to ensure that the new facilities will be in full compliance with health and safety and accessibility requirements.

Implementation of Corporate Initiatives

The Tribunal worked in partnership with the Ministry of Government Services to support the government's Open for Business strategy. Schedule 5 of the *Good Government Act, 2011*, modernizes the *Licence Appeal Tribunal Act, 1999* by reducing its regulatory count by 13.5%.

In keeping with the government's Green Agenda, the Tribunal reduced the number of electronic devices as recommended by the Government Services I&IT Cluster. The use of paper and the consumption of energy have been considerably reduced through changes to business processes and practices. The Tribunal has significantly increased its reliance on electronic documents, as opposed to paper copies, at internal meetings and briefings.

The Tribunal has continued to embrace the government's Diversity Strategy, by encouraging staff and Members to take advantage of training opportunities, and by fostering an inclusive and diverse workplace. On February 23, 2011, Shamira Madhany, Assistant Deputy Minister of the Diversity Division in the OPS Diversity Office, spoke to Tribunal's Members about the context for, and the key concepts of, diversity and inclusion.

Liaison and Outreach

In collaboration with its regulators, the Tribunal developed and implemented a rigorous training plan in response to an expansion in its jurisdiction in 2011-12 to include appeals under the following statutes:

- *Accessibility for Ontarians with Disabilities Act, 2005*
- *Liquor Licence Act*
- *Gaming Control Act, 1992*
- *Alcohol and Gaming Regulation and Public Protection Act, 1996*
- *Vintners Quality Alliance Act, 1999*

The Tribunal's former Chair, Lynda Tanaka, was a member of the Canadian Institute for the Administration of Justice and the Council of Canadian Administrative Tribunals, and was elected a member of the Board of Directors of the Society of Ontario Adjudicators and Regulators. She participated in the planning committee for the Annual Conference of Ontario Boards and Agencies in November, 2010 and moderated one of the panels.

Mrs. Tanaka also made presentations on topics related to administrative law, at conferences/meetings hosted by a continuing education provider (September 29 and 30, 2010), the Environment and Land Tribunals Ontario (November 29, 2010), a local community group (December 9, 2010) and the Ontario Bar Association (March 8, 2011).

Communicating Good Information and Enhancing Accessibility

To enhance accessibility of the services it provides to the public, the Tribunal has started to review and/or revise the content and format of its existing forms and public literature, and to design new tools to assist the parties and the public in their understanding of the appeal process. The Tribunal has also begun its planning activities for the launch of a new website that will be more accessible.

Statistical Summary

Key statistical data for the past three fiscal years are as follows:

	2010-11	2009-10	2008-09
Number of appeals received	620	622	669
Number of hearing days scheduled*	1,458	1,538	1,545
Number of hearing days heard*	497.5	507	506
Number of pre-hearings scheduled**	395	481	471
Number of pre-hearings held**	271	322	340
Number of decisions/orders released	574	705	730
Average length of hearing (in days)	1.25	1.40	1.12
Average length of time to release decisions (in days)	12.16	15.16	16.42
*Reflects the actual number of hearing and pre-hearing days scheduled or held			
**Reflects the number of pre-hearing events scheduled or held			

The number of appeals processed by statute is as follows:

	2010-11	2009-10	2008-09
<i>Bailiffs Act</i>	0	0	2
<i>Cemeteries Act (Revised)</i>	0	0	1
<i>Collection Agencies Act</i>	0	0	1
<i>Child and Family Services Act</i>	2	1	0
<i>Day Nurseries Act</i>	3	3	2
<i>Funeral Directors and Establishments Act</i>			
• <i>Claim</i>	1	2	4
• <i>Registration</i>	1	0	1
<i>Highway Traffic Act</i>			
• <i>ADLS</i>	17	15	33
• <i>CVIS</i>	1	1	0
• <i>CVOR</i>	26	19	31
• <i>GAR</i>	6	12	25
• <i>MED</i>	139	108	137
• <i>MVIA</i>	131	105	77
<i>Motor Vehicle Dealers Act/Motor Vehicle Dealers Act, 2002</i>			
• <i>Claim</i>	2	1	1
• <i>Registration</i>	93	64	64
<i>Ontario New Home Warranties Plan Act</i>			
• <i>Claim</i>	107	162	159
• <i>Registration</i>	17	46	56
<i>Private Career Colleges Act, 2005</i>	6	6	4
<i>Private Security and Investigative Services Act, 2005</i>	0	1	1
<i>Real Estate and Business Brokers Act, 2002</i>	22	17	21
<i>Travel Industry Act, 2002</i>			
• <i>Claim</i>	2	5	7
• <i>Registration</i>	44	54	42

Chart One: Total Number of Appeals Processed, by Statute (2010-11)

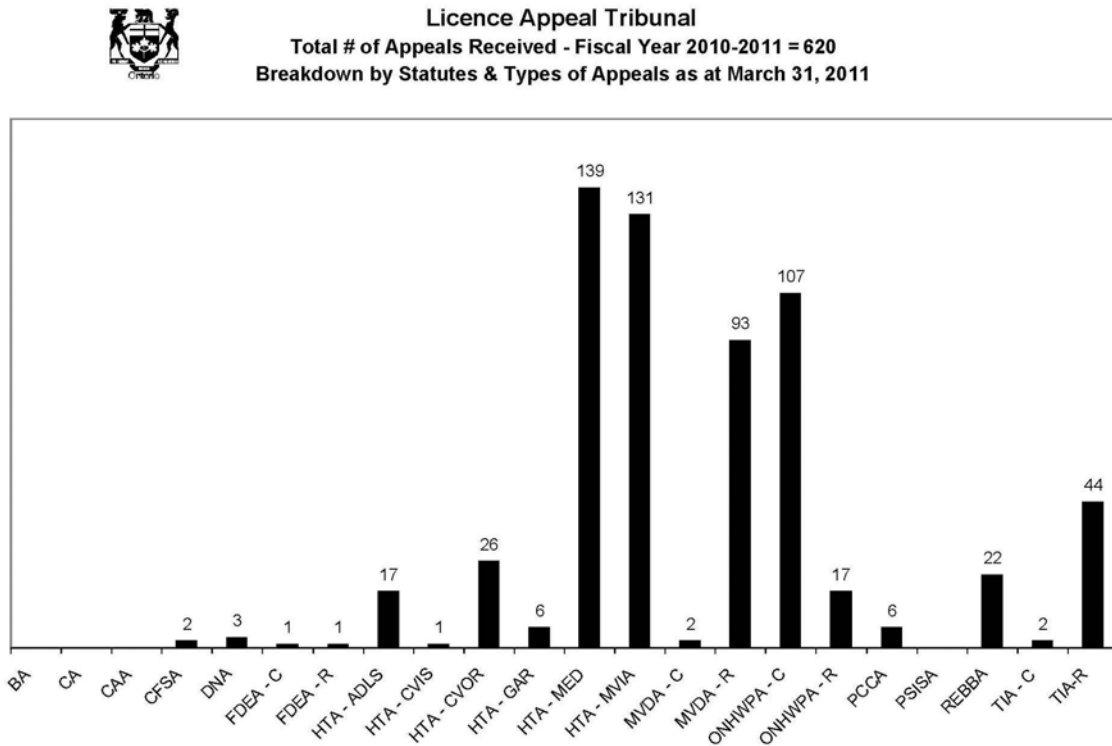
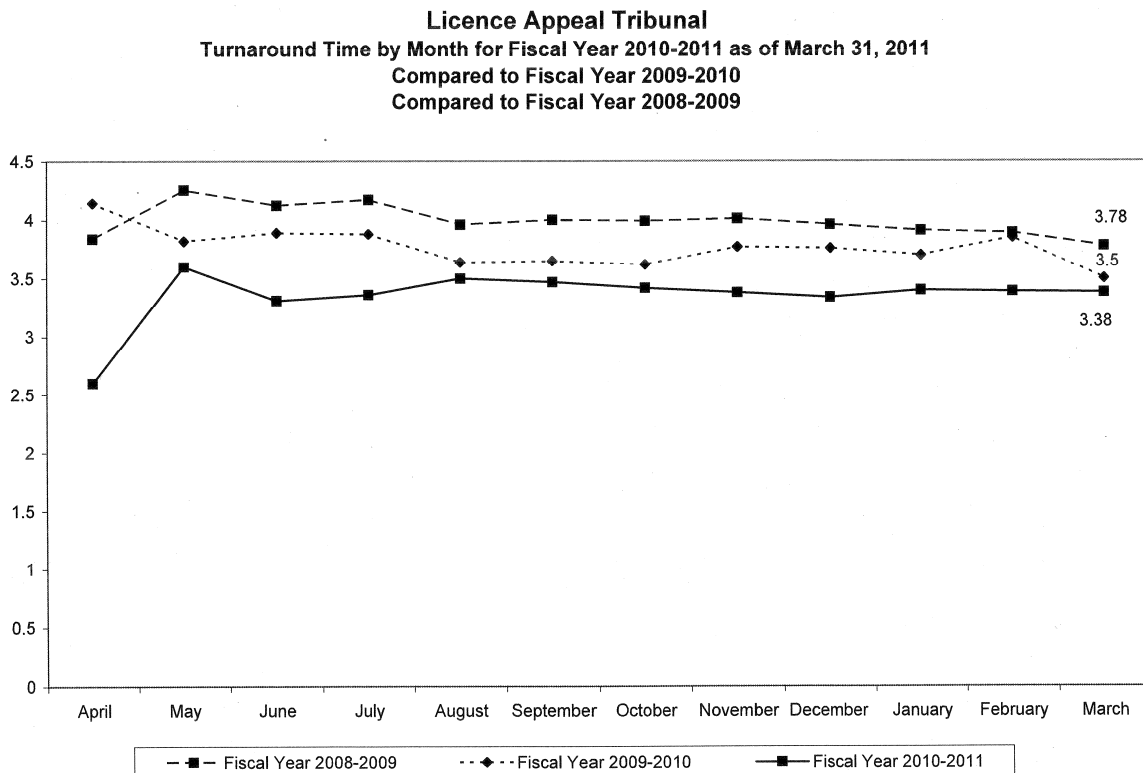


Chart Two: Average Turnaround Time, by Month (2010-11)



FINANCIAL PERFORMANCE (2010-11)

The Tribunal's actual expenditures for 2010-11 total about \$1.6M, an increase of \$0.13M compared to 2009-10. This increase, which can be attributed to the one-time and ongoing costs required for the implementation of the new administrative support structure in summer 2010, was fully offset from the Tribunal's 2010-11 appropriations.

Financial Information

2009-10

Standard Account	2009-10 Appropriations	Actual Expenditures
Salaries and wages	773,500	793,013
Employee benefits	117,700	101,943
Transportation and communication	94,200	94,216
Services	1,276,200	855,989
Supplies and equipment	35,900	10,788
Subtotal:	2,297,500	1,855,949
Less: Recoveries *	-437,300	-386,743
Add: Treasury Board Approvals **	-259,400	
TOTAL	1,600,800	1,469,206
Revenue under the <i>Licence Appeal Tribunal Act, 1999</i>		60,370

* The Tribunal hears appeals under various Ontario statutes and recovers \$765 per completed hearing per day from the respondent Ministries and self-managed industries to offset operating costs for the hearings.

** Reflects in-year approvals by Treasury Board.

2010-11

Standard Account	2010-11 Appropriations	Actual Expenditures
Salaries and wages	773,500	972,951
Employee benefits	117,700	113,262
Transportation and communication	94,200	64,753
Services	1,266,000	802,312
Supplies and equipment	35,900	18,057
Subtotal:	2,287,300	1,971,335
Less: Recoveries*	-437,300	-372,173
Add: Treasury Board Approvals **	-182,600	
TOTAL	1,667,400	1,599,162
Revenue under the <i>Licence Appeal Tribunal Act, 1999</i>		61,335

* The Tribunal hears appeals under various Ontario statutes and recovers \$765 per completed hearing per day from the respondent Ministries and self-managed industries to offset operating costs for the hearings.

** Reflects in-year approvals by Treasury Board.

STATUTES AND ACRONYMS

Statute	Acronym
<i>Bailiffs Act</i>	BA
<i>Building Code Act, 1992, O.Reg. 350/06 (Division C, Part 3, Sections 3.2, 3.3 and 3.4 only)</i>	BCA
<i>Cemeteries Act (Revised)</i>	CA
<i>Child and Family Services Act</i>	CFSA
<i>Collection Agencies Act</i>	CAA
<i>Consumer Protection Act, 2002</i>	CPA
<i>Consumer Reporting Act</i>	CRA
<i>Day Nurseries Act</i>	DNA
<i>Discriminatory Business Practices Act</i>	DBPA
<i>Film Classification Act, 2005</i>	FCA
<i>Funeral Directors and Establishments Act</i>	FDEA
<i>Highway Traffic Act</i>	HTA
• Subclause 32(5)(b)(i) – Medical • Subsection 47(1) – Medical and Commercial Vehicle Operator’s Registration-Carrier • Subsections 17(2),(3) – Commercial Vehicle Operator’s Registration • Subsection 48.3(2) – Administrative Driver’s Licence Suspension • Subsection 55.1(3) – Motor Vehicle Impoundment • Section 82.1 – Commercial Vehicle Impoundment and Suspension • Subsection 95(1) – Motor Vehicle Inspection Licence – Garage	MED MCVOR CVOR ADLS MVIA CVIS GAR
<i>Intercountry Adoption Act, 1998</i>	IAA
<i>Motor Vehicle Dealers Act/Motor Vehicle Dealers Act, 2002</i>	MVDA
<i>Ontario New Home Warranties Plan Act</i>	ONHWPA
<i>Paperback and Periodical Distributors Act</i>	PPDA
<i>Payday Loans Act, 2008</i>	PLA
<i>Post-Secondary Education Choice and Excellence Act, 2000</i>	PSECEA
<i>Private Career Colleges Act, 2005</i>	PCCA
<i>Private Security and Investigative Services Act, 2005</i>	PSISA
<i>Real Estate and Business Brokers Act, 2002</i>	REBBA
<i>Travel Industry Act, 2002</i>	TIA

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