



LICENCE APPEAL TRIBUNAL

ANNUAL REPORT

2012-13

**Office of
the Chair**

**Bureau du
président**

**Licence
Appeal
Tribunal**

530 - 20 Dundas St. W.
Toronto ON M5G 2C2

Telephone: (416) 314-4260
1 800 255-2214

Fax: (416) 314-4270
(416) 314-6307
1-800-720-5292

**Tribunal
d'appel en
matière de permis**

530 - 20, rue Dundas Ouest
Toronto ON M5G 2C2

Téléphone: (416) 314-4260
1 800 255-2214

Télécopieur: (416) 314-4270
(416) 314-6307
1 800 720-5292



June 27, 2013

The Honourable John Gerretsen
Ministry of Attorney General
McMurtry-Scott Bldg., 11th Floor
720 Bay St.
Toronto ON M7A 2S9

RE: Licence Appeal Tribunal 2012-13 Annual Report

Dear Attorney General:

I am pleased to present to you the Licence Appeal Tribunal's Annual Report for fiscal year 2012-13.

Yours truly,

A handwritten signature in black ink, appearing to read "Gary Yee".

Gary Yee
Associate Chair

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CHAIR'S MESSAGE

As the new Chair of the Licence Appeal Tribunal in August 2012, I worked with members and staff to find a way to describe a tribunal that handles appeals arising from over 25 statutes. The Licence Appeal Tribunal (LAT) resolves appeals from persons affected by licensing and compensation decisions made by various regulatory bodies. LAT's identity is focused upon laws that protect consumers and the public, and ensure the integrity of the regulated businesses and occupations. The most common cases involve liquor licences, new home warranty claims, medical suspension of driver's licences and impoundment of motor vehicles.

In the context of LAT's broad jurisdiction, we must continue building a constructive and cooperative relationship with stakeholders and counsel for both applicants and respondents. In a tribunal's quest to be more accountable for its quality and productivity, effective communication channels with stakeholders are essential. In furtherance of this goal, the LAT Consultative Committee was established in March 2013, with representatives of applicants and respondents, to facilitate discussion of operational and procedural matters.

As the incoming Chair in August 2012, I quickly came to appreciate the Tribunal's team of dedicated staff and members. I also want to thank Vice-Chair Greg Flude for his work as the interim Chair in the year prior to my arrival, and for his generous ongoing support.

In fiscal year 2012-2013, we continued to build an accountable, predictable and proactive tribunal. We focused on four action plans – adjudicative excellence, case management review, e-business and stakeholder relations. Our work in these areas is described in this Annual Report. LAT built a strong foundation for the change that was announced near the end of the fiscal year – the creation of the third adjudicative tribunal cluster – Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO).

On April 1, 2013, LAT became one of five tribunals in SLASTO. As well as being the Associate Chair of LAT, I was also appointed interim Executive Chair of SLASTO. It has been exciting to be a part of the creation of this third cluster, and to work with my new colleagues. In the coming year, while clustering will define the direction and identities of the clustered tribunals, LAT, like each of the other tribunals will continue to respond flexibly and effectively in order to carry out its individual legislative mandates.

The new cluster brings great potential for strategic and selective integration, through sharing resources (facilities, members, staff), improving best practices, increasing opportunities for professional development, and fostering more consistent approaches. The Licence Appeal Tribunal's experience in handling numerous diverse types of cases and hearings will be a valuable contribution to the cluster's success.

The year ahead promises to be eventful and exciting, and I look forward to working with everyone towards our common goal of deciding and resolving cases in a fair, timely and independent manner.

Gary Yee
Chair, Licence Appeal Tribunal

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MANDATE, JURISDICTION AND ORGANIZATION

Mandate

The Licence Appeal Tribunal (the “Tribunal”) is an independent adjudicative tribunal, established under the *Licence Appeal Tribunal Act, 1999*, with a mandate to resolve appeals regarding compensation claims and licensing decisions made by a wide variety of regulators and pursuant to appeal rights set out under a number of statutes.

Mission

The Tribunal's Mission is to:

- maintain efficient and flexible appeal processes that are clear and accessible to the public;
- provide fair, effective, timely and accessible dispute resolution;
- uphold the highest standards of professionalism, integrity and quality of work; and,
- promote consistency in adjudicative decision-making while considering the particulars of cases, the needs of the parties in a diversely constituted province, and an evolving understanding of the law.

With over 25 different statutes within the Tribunal's mandate, the Tribunal has a proven ability to take on new areas of jurisdiction in a flexible and effective manner. The appeal cases involve licensing and compensation decisions made by various regulatory bodies under laws that protect consumers and the public, and ensure the integrity of the regulated businesses and occupations. The most common cases involving liquor licences, new home warranty claims, medical suspension of driver's licences and impoundment of motor vehicles.

The Tribunal provides an independent dispute resolution process to ensure that these decisions are made in accordance with the evidence and the law. As with all adjudicative tribunals, the Licence Appeal Tribunal is subject to the rules of fairness and the principles of natural justice (that is, the right of the parties to a reasonable opportunity to be heard by an impartial decision maker). The Tribunal is also subject to the requirements of the *Statutory Powers Procedure Act*. Most Tribunal decisions can be appealed to the Superior Court of Justice (Divisional Court). All Tribunal proceedings are subject to the possibility of judicial review under the *Judicial Review Procedure Act*.

Organization

During the fiscal year 2012-13, the Tribunal was headed by a full-time Chair, one full-time Vice-Chair, and 36 part-time members, all appointed by Order-in-Council (OIC). The Tribunal has the equivalent of 16.5 full-time employees in the Ontario Public Service (OPS), providing adjudicative support, case management and administrative functions. The staff are headed by the Tribunal's Chief Operating Officer and Registrar.

The LAT Management Team consists of the Chair, Vice-Chair, COO/Registrar, Operations Manager, Tribunal Counsel and Special Advisor.

CHAIRS, VICE-CHAIRS AND MEMBERS (2012-13)

Chair

David Gregory Flude

Chair, until August 15, 2012

Gary Yee

Chair, starting August 16, 2012

Vice-Chair (full-time)

Patricia McQuaid

Vice-Chairs (part-time)

Name	Term of Appointment
Cassidy, Patricia	05 Oct 2006 – 04 Oct 2016
Cheng, Shu-Tai	15 Nov 2006 – 14 Nov 2016
D'amours, Marc	15 Nov 2006 – 14 Nov 2016
Diamond, Andrew	01 Jun 2005 – 15 Dec 2013
Flude, D. Gregory	22 Jun 2005 – 21 Jun 2015
Gahir, Harinder Singh	15 Nov 2006 – 14 Nov 2016
Garbe, E. Alan	01 Apr 2000 – 31 Mar 2014
Koprowski, Kenneth W.	01 Apr 2000 – 31 Mar 2014
Macklin, Richard	05 Oct 2006 – 04 Oct 2016
Proulx, Chantal	15 Nov 2006 – 14 Nov 2016
Sanford, M. Laurie	22 Jun 2005 – 21 Jun 2015
Sproule, Elizabeth L.	01 Apr 2000 – 31 Mar 2014
Sweeney, Terrance Austin	12 Aug 2008 – 11 Aug 2015
Wallace, Douglas R.	13 Jan 2005 – 22 Jan 2014
Weary, Jane	23 Jun 2004 – 22 Jun 2014

Members (part-time)

Name	Term of Appointment
McCauley, Alexander	01 Jul 2011 – 11 Oct 2013
Abu-Zahra, Hakam Tawfic	21 Aug 2003 – 20 Aug 2014
Aouad, Antoine A.	01 Apr 2000 – 31 Mar 2014
Benninger, Donald M.	12 Jun 2002 – 12 Jun 2014
Blais, Geneviève	07 May 2008 – 06 May 2015
Borenstein, David	03 Nov 2010 – 02 Nov 2015
Caryll, David B.	16 Apr 2008 – 15 Apr 2015

Castel, Jacqueline	01 Jul 2011 – 01 Apr 2015
Coffey, Patrick Graham	03 Feb 2003 – 02 Feb 2014
Dann, Simon	01 Apr 2000 – 16 Jun 2014
Fisher, Garry	05 Nov 2008 – 02 Sep 2015
Flynn, Kevin	28 May 2003 – 27 May 2014
Hurst, David W.	01 Aug 2003 – 31 Jul 2014
Kennelly, Jim	17 Jun 2004 – 16 Jun 2014
Montano, Nives	01 Apr 2000 – 25 Mar 2014
Penner, Keith	17 Sep 2004 – 16 Sep 2014
Spencer, Mary Ann	30 May 2006 – 29 May 2014
Turnbull, David Ian	21 Aug 2003 – 20 Aug 2014

OPERATIONS & PERFORMANCE

Statistical Report – Productivity

The Tribunal's statistical summary (see page 9) speaks to the Tribunal's overall productivity in respect of the resolution of appeals.

In 2012-13, the Tribunal received 673 appeals involving 723 individual applicants, and held a total of 587 hearing days. Although the incoming caseload decreased from the previous fiscal year 2011-12, more hearing days were used, largely due to the carryover of cases acquired in the July 2011 transfer of appeals from the Alcohol and Gaming Commission of Ontario.

There was an increase in the number of decisions/orders released (704 in 2012-13 compared to 663 in 2011-12). Part of this increased productivity was due to the Tribunal's increased emphasis on encouraging the parties to settle matters prior to the hearing. The average length of time to release decisions/orders following the conclusion of the hearing process increased slightly to 16 days from 15.3 days in 2011-12. The average turnaround time (from receiving an appeal to closing the file) remained relatively constant at 3.6 months in 2012-13 (3.4 months in 2011-12).

Adjudicative Excellence

Adjudicative excellence was one of four action plans that were developed and implemented in this fiscal year (the other three being case management review, e-business and stakeholder relations). The focus on adjudicative excellence involved increased professional development, and more member communications and collegiality, as well as onsite dedicated legal support.

Two major training sessions for Members were held to maintain the Tribunal's high level of expertise and knowledge. These sessions covered a broad range of topics relevant to the Tribunal's mandate and operations, including alternative dispute resolution (ADR) and resolving appeals without a hearing, decision writing and cultural competence. The Tribunal also organized two sessions for smaller groups of members. The first was for the Tribunal's physicians, regarding hearings of medical suspensions and downgrades of drivers' licences. The second session concentrated on the Tribunal's motor vehicle impoundment appeals.

In addition to the formal organized training sessions, the Tribunal started having monthly members' meetings by teleconference, to discuss arising issues on a timely basis. The Tribunal also initiated a pilot project to schedule selected two-member panels for the purposes of fostering consistency and collegiality, and sharing best practices.

The Tribunal added a lawyer to its staff on a part-time basis, who comes from the Social Justice Tribunals Ontario (SJTO). This has enabled the Tribunal to increase its professional development and to set up an "Adjudicative Hotline," through which

members are able to immediately contact either the Chair, Vice-Chair, or Tribunal Counsel to discuss any legal, adjudicative or hearing issues.

Stakeholder Relations

To be more accountable for our quality and productivity, we need clear communications, common expectations and constructive consultations. This means establishing an effective relationship with stakeholders. Stakeholders can identify areas for improvement, suggest best practices, and provide feedback for any planned changes. The Tribunal set up an e-mail distribution list of stakeholders and began issuing LAT Communiqués in the fall of 2012. The Tribunal also set up a formal Consultative Committee, which met for the first time in March 2013. It was a positive and instructive session for all involved. The plan is for the Consultative Committee to meet two or three times each year.

Case Management Review Initiative (CMRI)

The Tribunal's Case Management Review Initiative (CMRI), is part of its on-going effort to become more modern, accountable, and proactive in fulfilling the mandate of delivering fair and effective dispute resolution.

The CMRI is a critical re-evaluation of all Tribunal processes, beginning with the receipt of an appeal file. The Tribunal is exploring opportunities for increased efficiency in the file handling procedure.

The CMRI is responsive to the wide variety of cases and case types that the Tribunal handles. Since the Tribunal's business is so varied, it does not make sense to have a "one-size-fits-all" approach to scheduling and file management. To that end, the Tribunal is developing a series of "streams" into which appeal files would flow based on the pertinent characteristics of the appeal. The creation of different streams will provide the Tribunal with the ability to determine the most appropriate and efficient path for each appeal, while promoting the concept of proportionality in the efficient use of Tribunal, public and party resources.

E-Business

The Tribunal conducted a "Doing Business by E-mail" pilot project, which involved sending and receiving file-related correspondence with a small group of respondent regulators. The pilot concluded on January 31, 2013, and responses were overall quite positive. Many of the regulators involved indicated that they would like to see the project continue and expand. The Tribunal is reviewing its processes in light of the feedback, and is currently developing a plan for the expansion of the use of e-mail.

Governance and Accountability

Over the course of 2012-13, the Tribunal continued to work closely with the Ministry of Government Services to strengthen its internal controls in keeping with the government's directions on agency accountability and transparency. The Tribunal has in place business practices and processes that ensure compliance with government policies and directives, including the Management Board of Cabinet Directive on Agency Establishment and Accountability which took effect on January 26, 2010, and the revised Management Board of Cabinet Directive on Travel, Meal and Hospitality Expenses which took effect on April 1, 2010. Necessary changes continued to be made to the Tribunal's financial processes to support, and to ensure compliance with, the implementation of the Harmonized Sales Tax. In 2012-13, the Tribunal, with support from the Ministry, further improved its back office support framework including internal financial management processes that were approved by an internal audit conducted the previous year.

Under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, adjudicative tribunals were required to develop various accountability and governance documents, such as a mission and mandate statement, service standards, business plan, and so forth. These public documents were available as of April 1, 2012 and published on the Tribunal's web site soon after.

Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO)

On January 30, 2013, the Ontario Government announced the creation of the third cluster of adjudicative tribunals – Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO), effective April 1, 2013. This cluster consists of the Licence Appeal Tribunal, the Animal Care Review Board, the Fire Safety Commission, the Ontario Civilian Police Commission and the Ontario Parole Board. This new cluster would become part of the Ministry of the Attorney General.

The creation of this cluster is the next step in the Ministry's on-going efforts to develop modern governance and accountability structures for adjudicative tribunals that contribute to the government's broader goal of building a more effective and accessible justice system for all Ontarians. Tribunal clusters create many opportunities to share resources and knowledge, which will lead to improved practices, increased professional development and more consistent approaches.

Over the past few years, the Licence Appeal Tribunal worked to modernize its operations and take on expanded mandates. With responsibility for over 25 different appeal types and a proven ability to quickly adapt to new circumstances, LAT is in a strong position to continue to evolve within the larger cluster organization.

SERVICE STANDARD POLICY

The *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* requires adjudicative tribunals to develop a service standard policy. In the first year of this policy, the Tribunal identified three measurable targets focused on timeliness.

Hearing Service Standard

A hearing will be scheduled to take place within 30 days of receipt of a complete appeal in appeal types that do not require pre-hearings and in appeals of immediate suspensions regarding businesses or business privileges. If a statutory period regarding a suspension will expire in less than 30 days, a hearing will be scheduled to commence within the statutory period. The Tribunal committed to meeting this standard 95% of the time. In the fiscal year 2012-2013, the Tribunal met it 100% of the time.

Pre-hearing Service Standard

In appeal types with mandated pre-hearings, the pre-hearing will be scheduled to take place within 60 days of receipt of a complete appeal 95% of the time. In fiscal year 2012-2013, the Tribunal met this standard 98% of the time.

Decision Release Standard

Final decisions will be issued within 30 days of the final hearing event 90% of the time. When written submissions are required, the 30 day period begins when the Tribunal receives the final submission. In the fiscal year 2012-2013, this standard was met 86% of the time.

Service standards and internal guidelines designed to support the standards are reviewed on an on-going basis, which allows the Tribunal to take proactive steps to address any issues identified.

STATISTICAL SUMMARY

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

	2012-13	2011-12	2010-11
Number of appeals opened	673	750	573
Number of appeals closed	680	711	575
Number of hearing days held	587	533	498
Number of decisions/orders released	704	663	574
Average length of hearing (in days)	1.36	1.24	1.25
Average length of time to release decisions (in days)	16.0	15.3	12.2

Note: Annual Reports previous to 2012-13 reported the number of Applicants involved in appeals, not the number of appeals

Top Appeal Types – Number of Appeals

Appeal type	2012-2013	2011-2012	2010-2011
Liquor Licence Act	136	180	0*
Motor Vehicle Impoundment	119	133	131
Ontario New Home Warranties Plan Act	114	116	124
Medical Suspension of Driver's Licence	98	122	139
Motor Vehicle Dealers Act	49	54	62

* The Tribunal gained jurisdiction in Liquor Licence Act matters on July 1, 2011

Disposition of Appeals – 2012-2013

Resolved by decision of Tribunal	288
Resolved by settlement/withdrawal	387
Total	675

FINANCIAL PERFORMANCE

2011-12

Standard Account	2011-12 Appropriations	Actual Expenditures
Salaries and wages	773,500	1,254,388
Employee benefits	117,700	207,430
Transportation and communication	94,200	116,044
Services	2,685,600	1,396,069
Supplies and equipment	35,900	26,240
Subtotal:	3,706,900	3,000,171
Less: Recoveries *	-437,300	-301,028
Add: Treasury Board Approvals **	-457,500	
TOTAL	1,667,400	2,699,143

Revenue under the *Licence
Appeal Tribunal Act, 1999*

57,635

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

** Reflects in-year approvals by Treasury Board.

2012-13

Standard Account	2012-13 Appropriations	Actual Expenditures
Salaries and wages	1,271,000	1,294,003
Employee benefits	172,200	166,416
Transportation and communication	94,200	87,079
Services	2,588,700	1,207,077
Supplies and equipment	35,900	17,385
Subtotal:	4,162,300	2,771,960
Less: Recoveries*	-437,300	-274,635
Add: Treasury Board Approvals **	-926,000	
TOTAL	2,799,000	2,497,325
Revenue under the <i>Licence Appeal Tribunal Act, 1999</i>		71,700

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

** Reflects in-year approvals by Treasury Board.

How to Contact Us:

Licence Appeal Tribunal
20 Dundas Street West
5th Floor
Toronto, Ontario
M5G 2C2

Telephone: (416) 314-4260 or 1-800-255-2214
Fax: (416) 314-4270 or 1-800-720-5292
TTY (teletypewriter) Bell Relay service at 1-800-268-9242

Website: www.lat.gov.on.ca

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