



Assessment Review Board

Annual Report 2007-2008

Contents

<u>Chair's Message</u>	3
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SECTION I: Assessment Review Board Overview

<u>Overview of Property Assessment System</u>	4
<u>Purpose of the Board</u>	4
<u>History and Jurisdiction</u>	5
<u>Agency Cluster</u>	5
<u>Changes in Legislation and Regulations</u>	5
<u>Summary of Changes to the Rules of Practice and Procedure</u>	6

SECTION II: Operations 2007-2008

<u>2007-2008 Caseload</u>	7
<u>Performance Results</u>	8
<u>Pre-hearings</u>	8
<u>Teleconferences</u>	9
<u>Website & Electronic Service Delivery (ESD)</u>	9
<u>Public Information and Outreach</u>	9
<u>Member Training</u>	10

SECTION III: Financial Summary

<u>Expenditures</u>	10
<u>Revenue</u>	10

SECTION IV: ARB Members 2007-2008

<u>ARB Chair and Vice-Chairs</u>	11
<u>ARB Members</u>	11

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Chair's Message

I am pleased to present the Assessment Review Board's (ARB's) 2007-2008 Annual Report.

This report covers the events of the fiscal year, which ran from April 1, 2007 to March 31, 2008. The Board received approximately 53,000 complaints and resolved over 61,000 complaints.

This year, improvements to the Annual Assessment Complaint Form and the Board's complaint intake strategy helped reduce the number of incorrect or incomplete complaint filings.

Also, new legislation was introduced by the province that if passed will change the ARB hearing process.

During this fiscal year, the ARB welcomed two new Members to the Board and three Members who were previously part-time became full-time. Member training and mentoring programs were implemented and regional training sessions were held for all active Members.

The ARB continued to streamline and refine its processes and procedures. New forms for City of Toronto Act appeals were developed and the website was updated to improve access to information. The website continued to be a key resource for the public, providing useful information and the ability to file complaints online.

As the adjudicative tribunal Ontarians look to when contesting property assessments, the ARB is fully committed to resolving complaints in a fair, open and efficient manner.

Richard Stephenson

Chair
Assessment Review Board

SECTION 1: ASSESSMENT REVIEW BOARD OVERVIEW

Overview of the Property Assessment System



The above diagram illustrates the major participants in the property assessment system of Ontario. The provincial government, through the Ministry of Finance, sets the laws regarding property assessment. Municipalities are responsible for setting tax rates and collecting property taxes. The Municipal Property Assessment Corporation (MPAC) assesses and classifies all properties in Ontario. If there is a dispute between a property owner and MPAC, the property owner can file a complaint with the Assessment Review Board (ARB).

Purpose of the Board

The Assessment Review Board (ARB) is an independent adjudicative tribunal established under statute by the Province of Ontario that hears complaints about property assessment and classifications. In a court-like setting, the ARB hears these complaints and renders a decision based on the laws and the evidence presented at the hearing.

The Board, which operates under a variety of legislation, also deals with complaints on matters such as school support designation and some Municipal Act and City of Toronto Act appeals.

The Board's primary mandate is to ensure that properties are assessed in accordance with the provisions of the Assessment Act. ARB hearings are held throughout the province, generally in the municipality where the property is located. Through the hearing process, the complainants, or their representatives, are given the opportunity to present their case to the Board.

Along with other regulatory and adjudicative agencies, the ARB helps form the administrative justice sector in Ontario. These core agencies provide justice that is less expensive, less complex and less formal than the courts.

Agency and Board Members are an integral component of Ontario's social and legal infrastructure. They possess specialized knowledge of relevant legislation and matters in their particular field.

History and Jurisdiction

Property assessments have been conducted in what is now Ontario since 1793. In 1970, the province assumed the role of assessing property from municipalities and replaced the Courts of Revision with the Assessment Review Court (ARC). ARC was renamed the Assessment Review Board in 1983.

With the enactment of the Fair Municipal Finance Act, 1997, the ARB became the province's sole adjudicative tribunal for property assessment complaints. The legislation reduced duplication and ensured that the Board was the final tribunal of appeal for such complaints. Prior to 1998, ARB decisions could be appealed to the Ontario Municipal Board (OMB).

In 1998, an amendment to the Assessment Review Board Act gave the ARB the capacity to dismiss frivolous complaints. Decisions by the Board are final and binding, subject only to appeal to Divisional Court on questions of law when the Court grants leave to appeal. The Board also exercises the power to review its decisions.

The Board's jurisdiction and its authority are defined by the Assessment Review Board Act, the Assessment Act, the Municipal Act, 2001, the City of Toronto Act, 2006, the Education Act and the Statutory Powers Procedure Act.

Agency Cluster

In September 2006, the Ontario government appointed an Agency Cluster Facilitator to work with five tribunals in the municipal, environment and land-use planning sectors to find ways to improve services through cross-agency coordination of operations, administration and dispute resolution.

The five tribunals included in the cluster are: the Assessment Review Board, the Board of Negotiation, the Conservation Review Board, the Environmental Review Tribunal and the Ontario Municipal Board.

Co-location of the five tribunals occurred in March 2008 to 655 Bay Street in Toronto.

Changes in Legislation and Regulations

(Note: the following changes in legislation and regulations are not a complete list but rather are key provisions affecting the Assessment Review Board, which may be of interest to the reader.)

1. Recreational Facilities

On May 24, 2007 Ontario Regulation 212/07 was filed and concerned adding not-for-profit private recreational facilities to the residential property class under paragraph 1 of subsection 3(1) of Ontario Regulation 282/98. O. Reg. 212/07 was deemed to have come into force on January 1, 2005.

2. Wind Turbine Towers

On September 5, 2007 Ontario Regulation 528/07 was filed and concerned property classes and current values of wind turbine towers and their associated land.

3. Condominium Hotels

On September 7, 2007 Ontario Regulation 538/07 was filed and concerned the assessment of urban condominium hotels. For 2006 and forward the pro forma income capitalization approach to valuation for the assessment of eligible condominium hotels will be used.

4. 2009 Tax Year

In Ontario's 2007 Budget, major changes to the assessment system were announced for the 2009 tax year. With the 2008 Budget, Bill 44, the Budget Measures and Interim Appropriation Act, 2008 was tabled with further changes. These changes for 2009 include:

- Four-year re-assessment cycles with phase-in of increases.
- Requests for reconsideration to the Municipal Property Assessment Corporation (MPAC) are now mandatory before filing an appeal with the ARB for residential, farm and managed forest properties.
- Change to onus of proof on valuation appeals will now require MPAC to prove the correctness of the current value.
- Changes to filing deadlines for requests for reconsideration and appeals.
- New provisions for year-round correction of factual errors by MPAC.

For more information on these and other changes for the 2009 tax year, please refer to Bill 44, available online at www.e-laws.gov.on.ca.

Summary of Changes to the Rules of Practice and Procedure effective April 1, 2007

- 1) The commentary immediately prior to *Rule 1* has been removed to avoid confusion.
- 2) Rule 14 (No Proceeding for Period if Party is Absent) has been modified to reflect a 10-minute wait time for a teleconference or videoconference if the parties have not yet appeared and have not given notice that they will not appear.
- 3) Rule 15.2 (Where No Fee Paid) was added to indicate that the Board will not consider a matter or schedule a hearing event without the appropriate fee having been paid.
- 4) Rule 16 (Exceptions to *Rule 15*) has been expanded to include delivery or mail of third party complaints as well as Municipal Act, 2001 applications, appeals and complaints.
- 5) A new commentary was added immediately prior to *Rule 23* to encourage parties to bring at least three copies of exhibits to a hearing.
- 6) Rule 23 (Return of Exhibits) was modified to indicate that the Board would retain exhibits for 120 days (rather than 60) after the Board decision issues or is mailed and exhibits will not be returned on the day of the hearing.

7) Rule 37 (Procedure if Settlement before Board Hearing Event) has been expanded to indicate that the Board will not accept recommendations or settlements at electronic hearings.

8) Rule 38.1(b) (Withdrawal of Complaint, etc.) now specifies the withdrawal of a complaint once a hearing has commenced, only with leave of the Board.

9) Rule 39 (Summons Form from Board) indicates that the Board may require an affidavit indicating how a witness' evidence is relevant. If the Board is not satisfied by the affidavit, a motion to determine the question will be held. The commentary after Rule 39 has been updated.

10) Rule 86.3 (Requirement for Scheduling) paragraph (a) is expanded to include the requirement that each party file a Statement of Issues or Response as well as a Certificate of Readiness.

11) Rule 106 (Request Required) a "person" replaced with a "party" to reflect section 17 of the Statutory Powers Procedure Act.

12) Rule 107 (Issuing a Board Decision) reference to "in hard copy" removed to reflect electronic release of decisions.

13) Rule 117 (Rehearing) moved to Rule 110 to precede the Rules dealing with Review of a Board Decision or Order, which are subsequently re-numbered as Rules 111 to 117 inclusive.

14) Comments on Reviews and rehearings immediately prior to Rule 111. In paragraph one the sentence reading "[t]he Board discourages the parties from spending extra time and money in responding when the majority of requests are refused after initial review" has been removed. In the paragraph beginning with Note after paragraph three, the first sentence has been simplified to "[t]he Board requires very good reasons for changing a final decision." The last sentence in the paragraph beginning with Note has been deleted.

15) Rule 116 (Procedure on Review Request) formerly Rule 115 now has a 90 day time frame for the review requester to obtain a motion date or rehearing date from the date of the Chair's letter granting a motion or rehearing. Failure to act within this time frame will result in a revocation of the decision to grant a motion or rehearing.

SECTION II: OPERATIONS 2007-2008

2007-2008 Caseload

At the beginning of the 2007-2008 fiscal year, the ARB had a total of 87,000 complaints on file. During the 2007-2008 fiscal year, the Board received approximately 53,000 complaints, including deemed complaints. By the end of the fiscal year, over 61,000 complaints were resolved. The bulk of the outstanding caseload at the end of the fiscal year consisted mostly of complex, non-residential properties from prior years.

Complex cases may require multiple pre-hearings to clarify the issues, therefore, more time could be required by the parties to gather evidence and prepare testimony.

Table 1: Caseload 2005-2006 to 2007-2008

Year		2005-2006	2006-2007	2007-2008
Opening Caseload Balance		80,300	98,100	87,000
Caseload Received*	+	82,000	39,000	53,000
Total Caseload for year	=	82,000	137,100	140,000
Resolved Caseload	-	64,200	50,100	61,000
Balance at the End of the Fiscal Period	=	98,100	87,000	78,000

Note: The municipal tax year begins January 1 and ends December 31. The deadline for annual assessment complaints to the ARB is usually March 31 of the tax year, which corresponds with the end of the provincial fiscal year. For the 2008 tax year, the deadline was March 31, 2008.

** **Caseload Received** includes all types of complaints and appeals dealt with by the Board, including annual assessment complaints, supplementary and omitted assessment complaints, Municipal Act appeals and City of Toronto Act appeals.*

Performance Results

The ARB hears all assessment complaints in Ontario. Generally, residential complaints can be streamed directly to a full hearing and are consequently resolved faster than many non-residential complaints, which may require multiple hearing events.

The ARB works to resolve residential complaints within one year of filing. In the 2007-08 fiscal year, 99 per cent of unrepresented residential complaints were resolved within 365 days of filing.

The ARB strives to issue its decisions in a timely manner. In the 2007-2008 fiscal year 94 per cent of decisions were issued within 60 days of the hearing

Pre-hearings

Many complaints concerning complex, non-residential properties require extensive hearing time and may be presided over by a panel of Members.

These complaints are screened based on established criteria such as property classification, size and assessed value, and may be directed into pre-hearings. During the pre-hearing process, the Board works with the parties to establish a schedule for proceeding and may issue procedural orders to direct exchanges of information and pre-filings. Pre-hearings have the potential to expedite the hearing process and allow parties to reach a settlement before a hearing begins.

Teleconferences

It can sometimes be difficult and time consuming to coordinate a hearing when parties need to travel across the province. For these cases, the Board conducts telephone conferencing, or “electronic hearings.” In 2007-2008, the Board conducted more than 2,400 teleconferences. Teleconferencing is a practical way to provide status updates and determine next steps toward issuing procedural or consent orders, resolving contentious matters and, in some instances, settling complaints. This service saves time and money by reducing travel for all parties involved in Board hearings.

Website & Electronic Service Delivery (ESD)

The Board’s website, www.arb.gov.on.ca, plays a key role in providing information and services to the public.

In 2007-2008, the Board enhanced its existing E-Services to continue providing efficient ESD. Throughout the year, the Board’s website, E-Status and E-File options were updated and improved, with a focus on user friendliness and clear language. A new design for the whole website was implemented in March.

In addition to providing information to the public, the website hosts three main services:

E-File

E-File is a tool that allows the public to submit annual assessment complaints via the ARB website. All required information and the appropriate filing fees are collected and verified electronically online. E-Filed complaints are accepted immediately into the ARB’s electronic case management system. E-Filed complaints do not require manual data entry, reducing the required processing time. During the 2008 intake period, over 40 per cent of complaints were E-Filed by the filing deadline.

E-Status

E-Status allows complainants to check the status of their complaints directly from the ARB website by entering the 19-digit roll number assigned to their property. E-Status displays information about complaints, hearings (once scheduled) and decisions (once issued). In 2007-2008, E-Status received approximately 2,000 to 3,000 inquiries each month.

E-Calendar

E-Calendar provides complainants, representatives and other interested parties current information about ARB hearings throughout Ontario. Hearing information can be obtained by searching for the location of a property or the location of a hearing.

Public Information and Outreach

The Board strives for effective and timely communication with the public and stakeholders. To communicate more effectively, the Board has:

- Updated and re-designed its *Filing a Complaint* and *Preparing for a Hearing* pamphlets. Both pamphlets are available on the Board’s website in downloadable formats;

- Created new forms for City of Toronto Act appeals to assist the public with filing more accurate and complete appeals;
- Expanded on correspondence with complainants via e-mail. The Board answered over 1,200 e-mails. Clients used e-mail to inform the Board about a variety of issues, including change of address, withdrawals and requests for written reasons;
- Updated its complaint forms and instructions to include improvements suggested by the public, staff and Adjudicators.

Member Training

Ongoing Member training remains a priority at the ARB. Newly appointed Members have the benefit of an in-house introductory session, in-hearing mentoring by senior Members and courses that are tailored to the issues Members confront in the various types of ARB hearings. Regional training sessions are held semi-annually and Intensive Training Sessions (ITS) are held annually. As well, all Members are encouraged to attend educational courses available through the Society of Ontario Adjudicators and Regulators (SOAR).

SECTION III: FINANCIAL SUMMARY

Expenditures

Table 2: Expenditures 2005-2006 to 2007-2008

ACCOUNT ITEMS	2005-2006 (\$)	2006-2007 (\$)	2007-2008 (\$)
Salary and Wages	4,346,465	4,444,317	4,488,481
Employee Benefits	646,618	662,880	623,291
Transportation and Communications	793,523	831,748	658,930
Services	1,373,306	2,044,602	2,426,646
Supplies & Equipment	299,649	486,232	190,656
Transfer Payment	NIL	NIL	NIL
TOTAL	7,459,561	8,469,779	8,388,004

Revenue

Under the authority of the Assessment Review Board Act and a regulation made under the Interpretation Act, complaints and appeals must be accompanied by the required filing fee. The filing fee, which varies depending on property type, is collected by the ARB and is immediately transferred to the Ministry of Finance.

Table 3: ARB Revenue 2005-2006 to 2007-2008

FISCAL YEAR	REVENUE COLLECTED (\$)
2005-2006	2,484,565
2006-2007	3,654,571
2007-2008	698,051

Section IV: ARB MEMBERS 2007-2008

SECTION IV: ARB MEMBERS 2007-2008

ARB Members (During the 2007-2008 fiscal year)

Full-Time Original ARB Appointment

STEPHENSON, Richard (CHAIR)	April 7, 1993
BUTTERWORTH, Robert (Vice-Chair)	November 19, 1997
CAMPBELL, Susan (Vice-Chair)	May 27, 1998
MATHER, Susan (Vice-Chair)	November 19, 1997
BOURASSA, Marcelle (Vice-Chair)	April 11, 2006
COWAN, Bernard A.	December 19, 1997
WHITEHURST, Donald	May 18, 2005
WYGER, Joseph M.	May 27, 1998
WALKER, Janet Lea	September 4, 2007

Part-Time Original ARB Appointment

ANDREWS, Peter	May 18, 2005
BACHLY, David	November 26, 1970
BELANGER, Mignonne	January 11, 1984
BIRNIE, Ian	May 6, 1999
BROWN, Douglas C.	June 30, 2000
BROWNLIE, John D.	May 27, 1998
CASTEL, André	November 19, 1997
CORCELLI, Richard J.	January 15, 2007
CRAIGIE, Kenneth Russell	January 15, 2007
CUPIDO, Charles	October 1, 1980

Part-Time**Original ARB Appointment**

DRIESEL, Sandra	March 16, 2000
FENUS, Andrew	May 30, 2007
FERGUSON, Nancy	April 11, 2006
GRIFFITH, E.J.W.	November 12, 1970
GRIFFITH, Jennifer	September 17, 2004
HILL, Don	December 23, 1970
INGLIS, Vern	May 27, 1998
JUSTIN, Edith	November 17, 1970
KANUCK, Nalin Dr.	May 7, 2003
KOWARSKY, Barbara	May 18, 2005
LAFLAMME, Jacques	August 25, 2004
LAREGINA, Anthony	January 15, 2007
LAWS, Joanne	February 10, 2006
LEVASSEUR, Romeo	May 18, 2005
LIMOGES, Rick	January 15, 2007
MACGILLIVRAY, J.	February 8, 1984
MACKAY, Ann	August 25, 2004
MARQUES, Ana Cristina	May 18, 2005
MINNIE, Garry	March 1, 2006
MORIN, Gilles	September 30, 2004
NALEZINSKI, Les	March 1, 2006
OLIVEIRA, Evangelista (Ivan)	May 17, 1999
PLUMSTEAD, Nicoll	May 18, 2005
RADE, Bernice M.	August 25, 2004
ROMAS, George	August 25, 2004
SAPONARA, Fausto	May 18, 2005
SHARMA, Marilyn	January 15, 2007
SMITH, Barry A.	November 26, 1970
STILLMAN, Paul M.	March 26, 1975
STONE, Carl A.	October 1, 1970
SUTTON, William (Bill)	September 17, 2004
TCHEGUS, Robert	February 10, 2006
TENNANT, Bryan R.	March 31, 2000
TERSIGNI, Joe	May 30, 2001