



Environment and Land Tribunals Ontario

Environmental Review Tribunal

Annual Report 2009-2010

Contact Information:

Environment and Land Tribunals Ontario
Environmental Review Tribunal
655 Bay Street, Suite 1500
Toronto, ON M5G 1E5

Tel: (416) 212-6349
Toll free: 1-866-448-2248
Fax: (416) 314-4506

E-mail: erttribunalsecretary@ontario.ca
Website: www.elto.gov.on.ca

Copies of this annual report, as well as other Board publications, may be obtained from the Board.

© Queen's printer for Ontario, 2010

ISBN
ISSN

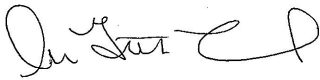
Environment and Land Tribunals Ontario
www.elto.gov.on.ca

To the Honourable Chris Bentley, Attorney General

Minister:

We have the pleasure of submitting, for your approval, the Environmental Review Tribunal 2009-2010 Annual Report.

Respectfully submitted,



Michael Gottheil
Executive Chair
Environment and Land Tribunals Ontario



Ali Arlani
Chief Executive Officer
Environment and Land Tribunals Ontario

2010

Contents	Page
<u>Chair's Message</u>	<u>3</u>

SECTION 1: Environmental Review Tribunal (ERT) Overview

<u>Mandate</u>	<u>5</u>
<u>Core Functions</u>	<u>6</u>
<u>Overview of Relevant Legislation</u>	<u>8</u>
<u>Rules of Practice and Procedure Directions</u>	<u>22</u>
<u>Agency Cluster</u>	<u>22</u>

SECTION 2: Operations 2009-2010

<u>2009-2010 Caseload</u>	<u>23</u>
<u>Report on Performance Measures</u>	<u>24</u>
<u>Consolidated Hearings</u>	<u>28</u>
<u>In House Learning Programs</u>	<u>29</u>
<u>Visitors to the Tribunal</u>	<u>31</u>

SECTION 3: Financial Summary

<u>2009-2010 Financial Report</u>	<u>32</u>
-----------------------------------	-----------

SECTION 4: ERT Members 2009-2010

<u>Chair and Vice-Chairs</u>	<u>33</u>
<u>Members</u>	<u>33</u>

Chair's Message

On behalf of all Members and staff, it is my pleasure to report on the activities of the Environmental Review Tribunal (ERT) for the fiscal year ending March 31, 2010.

With the recent addition of the Toxics Reduction Act, 2009, the Tribunal now adjudicates appeals, applications and referrals under 13 statutes. In the coming fiscal year the Tribunal will also have new jurisdiction under the Environmental Protection Act for renewable energy approval appeals, which will increase the Tribunal's responsibilities and workload. Revised Rules of Practice, as well as Practice Directions and a new Guide for these matters were developed in the period covered by this Report, and will be available to the public, following public consultation, to enhance access to the Tribunal processes.

During the fiscal year covered by this Report, the Tribunal succeeded in increasing the number of cases where parties participated in its mediation services. This resulted in an increase in settlements. We also exceeded our performance targets for the timely release of Members' decisions and the scheduling of hearings.

I am pleased to report that the "Summaries of Decisions and Significant Orders" for fiscal year 2009 – 2010, formerly published in the Tribunal's Annual Reports, will now be available as a separate document and will be posted on the Tribunal's website. It is anticipated that these summaries of decisions and significant orders will now be available on a quarterly basis.

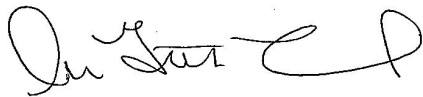
I was appointed Chair of the ERT, and Executive Chair of the Environment and Land Tribunals Ontario (ELTO) cluster of which the ERT is a part, in November, 2009.

ELTO brings together the ERT, the Assessment Review Board, the Board of Negotiation, the Conservation Review Board and the Ontario Municipal Board. I believe the decision by the Government to group these five important tribunals reflects a recognition of the key role each plays in resolving disputes, within the applicable legislative framework, to support strong, healthy communities, and of the potential to better fulfill that role by bringing them together.

I also believe administrative tribunals must constantly work to be accessible, principled and just, and must engage their users, staff and Members in the design and ongoing assessment of their processes. Tribunals must operate in ways that attract, support and retain highly-skilled staff and Members, and must have a sharp focus on meeting the needs of their users and advancing the public interest within the applicable legal and policy frameworks.

The staff and Members of ELTO's tribunals are dedicated to achieving these important goals. In particular, the ERT is fully committed to resolving environmental disputes in a fair, open and timely manner, to exemplifying the highest standards of professionalism, integrity and good public service, and to providing access to justice for all who wish to use our services.

I extend my thanks to Toby Vigod, Executive Vice-Chair, for her assistance with transition and her work as the former Chair. I also thank each of the Vice-Chairs and Members for their professionalism and their dedication to serving those who use the Board's services, and all Board staff for their excellent work in ensuring the ERT meets its mandate and service standards. Finally, I would like to thank Ali Arlani, ELTO's CEO, for his support, and for his achievements over the past few years, leading the operational and administrative staff through a successful, though sometimes challenging transition to ELTO. I look forward to working with Members, staff, stakeholders and the broader community throughout the 2010/11 fiscal year and beyond to help realize the ERT's potential within ELTO.

A handwritten signature in black ink, appearing to read 'Michael Gottheil', with a stylized, cursive script.

Michael Gottheil
Chair – Environmental Review Tribunal
Executive Chair – Environment and Land Tribunals Ontario

SECTION 1: Environmental Review Tribunal (ERT) Overview

Mandate

The Environmental Review Tribunal (Tribunal) was established under the Environmental Review Tribunal Act, 2000.

The Tribunal is an administrative tribunal which operates under rules of procedural fairness, the rules of natural justice, and the requirements of its governing legislation and the Statutory Powers Procedure Act. The Tribunal resolves applications and appeals under the following statutes: Clean Water Act, 2006, Consolidated Hearings Act, Environmental Assessment Act, Environmental Bill of Rights, 1993, Environmental Protection Act, Niagara Escarpment Planning and Development Act, Nutrient Management Act, 2002, Ontario Water Resources Act, Pesticides Act, Safe Drinking Water Act, 2002 and the Toxics Reduction Act, 2009. The Tribunal also hears matters under the Oak Ridges Moraine Conservation Act, 2001 and the Greenbelt Act, 2005. See page 6 for an overview of the legislation governing the work of the Tribunal.

Under the Niagara Escarpment Planning and Development Act, Members of the Tribunal are appointed by the Minister of Natural Resources as Hearing Officers to conduct hearings. The Hearing Officers issue reports or make recommendations concerning appeals of decisions of the Niagara Escarpment Commission regarding development permit applications. Members are also appointed to conduct public hearings for the purpose of making recommendations regarding proposed Niagara Escarpment Plan (NEP) amendments. Every 10 years, Members conduct hearings to review the NEP.

Pursuant to a designation as the Office of Consolidated Hearings, the Tribunal administers hearings as requested under the Consolidated Hearings Act. Under the authority of the Consolidated Hearings Act, a Joint Board is established in order to combine into one hearing a multiplicity of hearings before different tribunals under various acts on matters relating to the same undertaking. A Joint Board usually consists of Members of the Tribunal and the Ontario Municipal Board and is empowered to hold a hearing to consider all of the matters under all of the acts that govern the undertaking and for which hearings are required.

The Tribunal Members, who are Order-in-Council appointees, conduct fair, efficient and impartial hearings and make decisions, issue reports or make recommendations, with written reasons that are based on the applicable law, the evidence presented, and statutory duties to protect the environment. A list of Tribunal Members is in Section IV of this annual report.

Core Functions of the Tribunal

The Environmental Review Tribunal has four main functions:

- 1. Conducting Pre-Hearings, Hearings and Decision Making**
- 2. Processing of Hearings**
- 3. Conducting Mediation**
- 4. Providing Public Access**

1. CONDUCTING PRE-HEARINGS, HEARINGS AND DECISION MAKING

The Tribunal Members, who are all Order-in-Council appointees, are responsible for these functions, which include the conduct of hearings and the issuance of written decisions.

All reports arising from appeals of development permit applications under the Niagara Escarpment Planning and Development Act (NEPDA) are required by legislation to be issued within 30 days of the conclusion of the hearing or within such longer period as the Minister of Natural Resources may allow.

Recommendations for Niagara Escarpment Plan amendment applications must be rendered no more than 60 days after the conclusion of the hearing or within such extended time as specified by the Niagara Escarpment Commission.

Tribunal decisions on Leave to Appeal applications under the Environmental Bill of Rights, 1993 are to be issued within 30 days of the filing date of the application, unless the Tribunal determines that, due to unusual circumstances, a longer period is required. In all other types of decisions, Tribunal Members endeavour to render their decisions within 60 days of the completion of the hearing or the filing of final written submissions.

2. PROCESSING OF HEARINGS

The processing of appeals/applications, which is performed by the Tribunal staff, includes all administrative steps necessary to schedule and resolve an appeal/application from the date of filing to the closing of the file. For example, when an appeal/application is received, it is dealt with through an administrative process that includes:

- Reviewing the appeal/application to assess its validity
- Acknowledging the appeal/application and requesting further information, if required
- Scheduling the hearing
- Monitoring and managing the case throughout the process
- Posting orders and the final written decision on the website.

3. CONDUCTING MEDIATION

The use of mediation in the hearing process encourages the parties to discuss the issues in dispute in an attempt to narrow or settle differences. The successful results achieved during mediation often eliminate the need for a hearing or reduce the number of scheduled hearing days.

The Members who conduct Tribunal mediations have received certified training. Mediation, which is offered in all appeal and application hearings (except in matters under the NEPDA, Oak Ridges Moraine Conservation Act, 2001 and the Greenbelt Act, 2005) is conducted after a preliminary hearing and, generally, 30 days prior to the commencement of the main hearing. However, should the parties choose not to participate at that time, mediation services are available any time throughout the hearing process upon request.

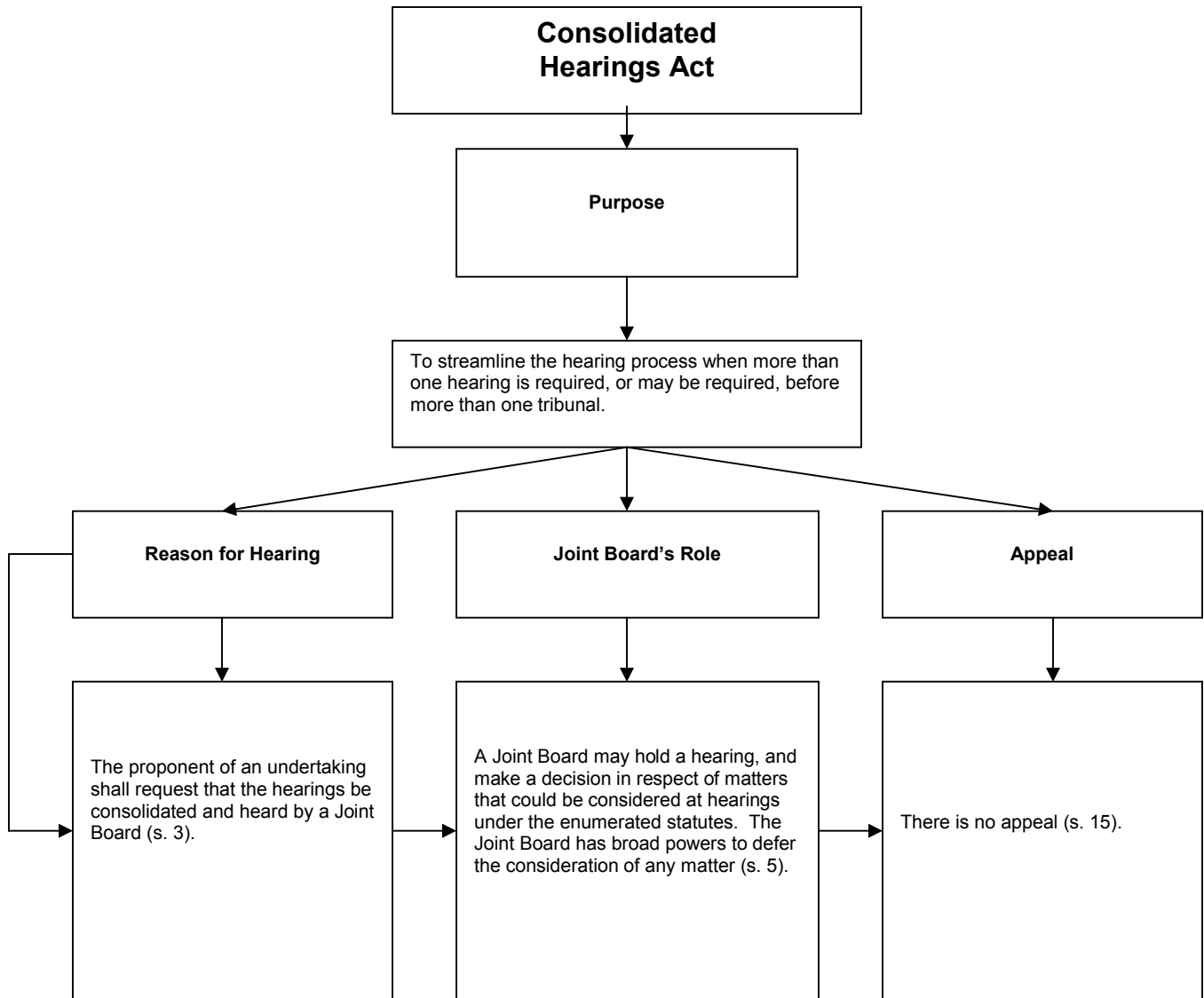
4. PROVIDING PUBLIC ACCESS

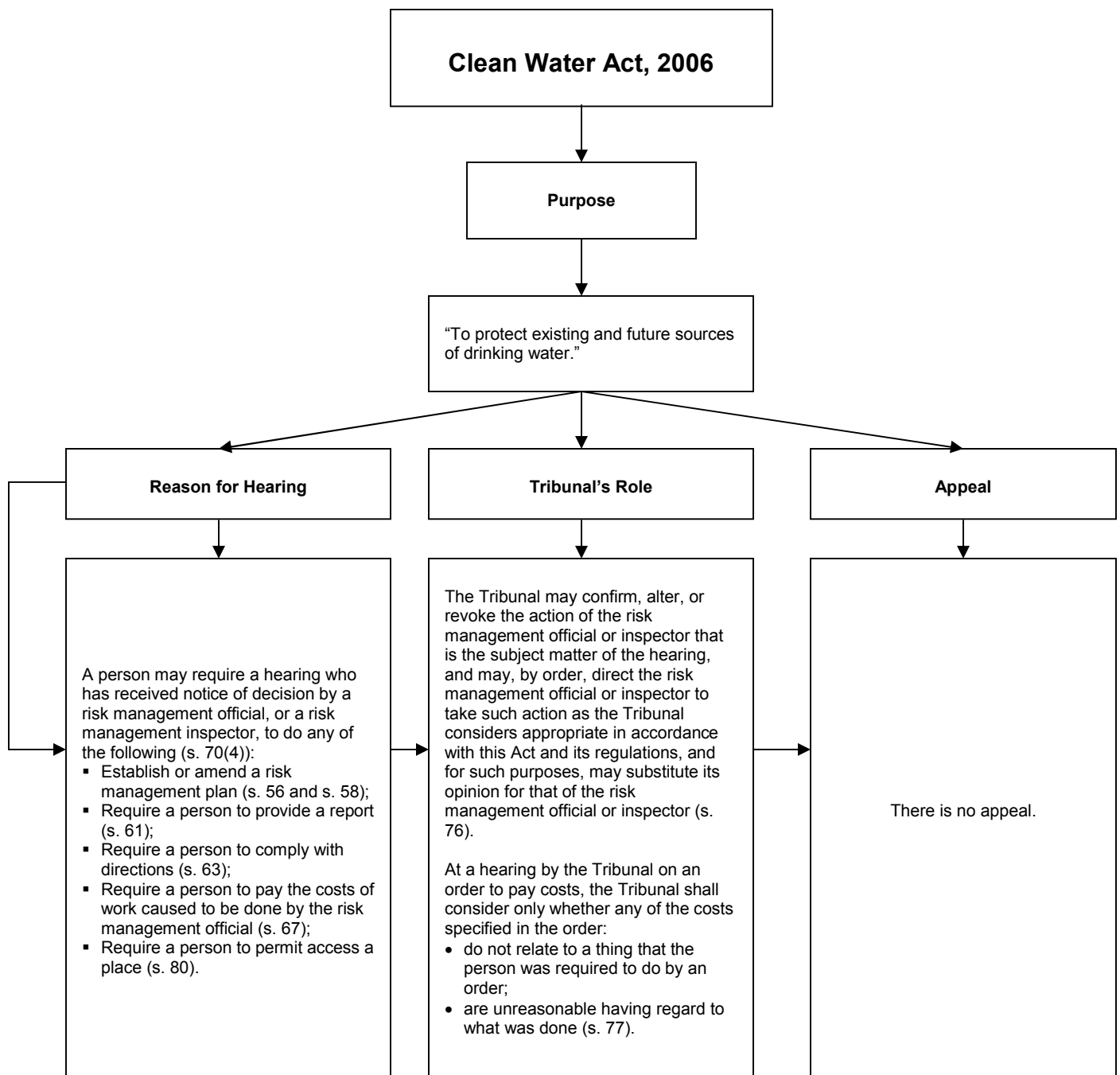
The Tribunal's website provides information regarding hearing processes and procedures through its Guides, as well as procedures for e-filing. Through the website, users can access appeals/applications received, hearings scheduled, status of cases and hearing locations. Decisions, orders, relevant statutes, Rules of Practice and Practice Directions, Conflict of Interest Rules, and policies regarding complaints and accessibility are also available.

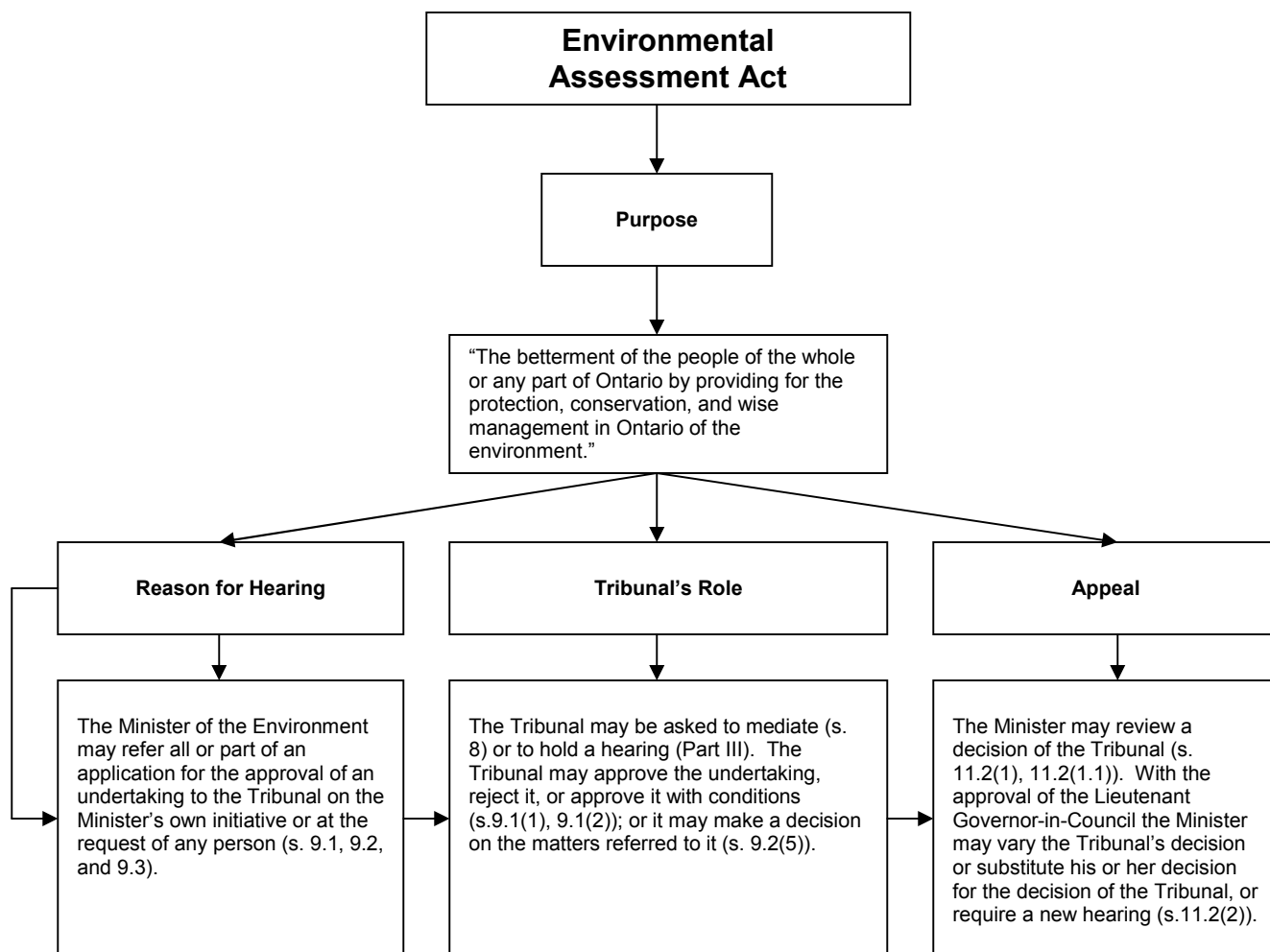
The Tribunal's outreach function also includes staff responses to questions from parties and the public, public speaking and stakeholder consultation. The Tribunal seeks feedback regarding new Rules, policies and procedures from its stakeholders.

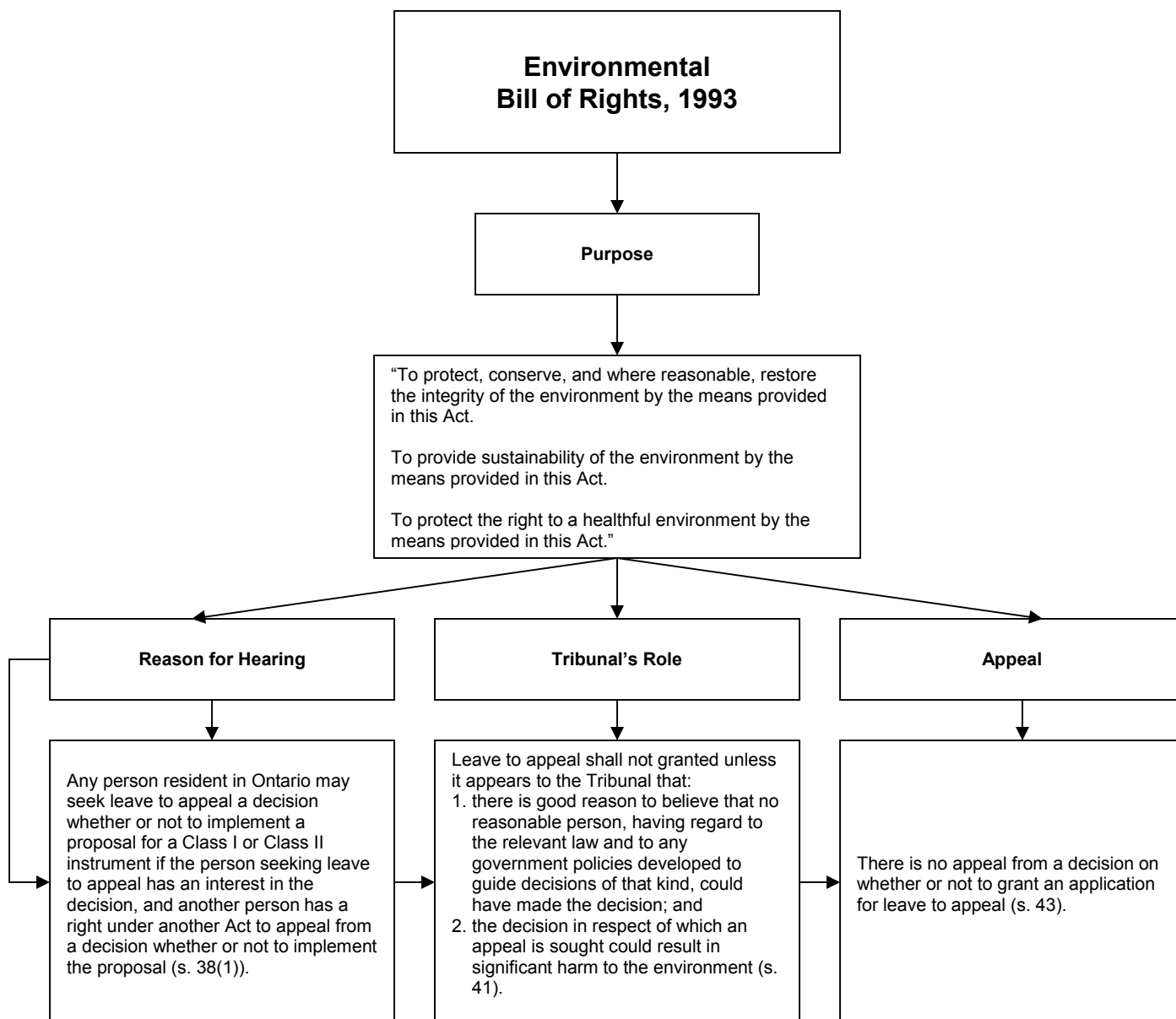
Following hearings and mediations, the Tribunal sends out a questionnaire in order to receive feedback on its performance. The Tribunal welcomes comments regarding its new policies, procedures and general operational processes and encourages the use of the feedback form posted on its website. Questions can also be addressed to the Tribunal by e-mail.

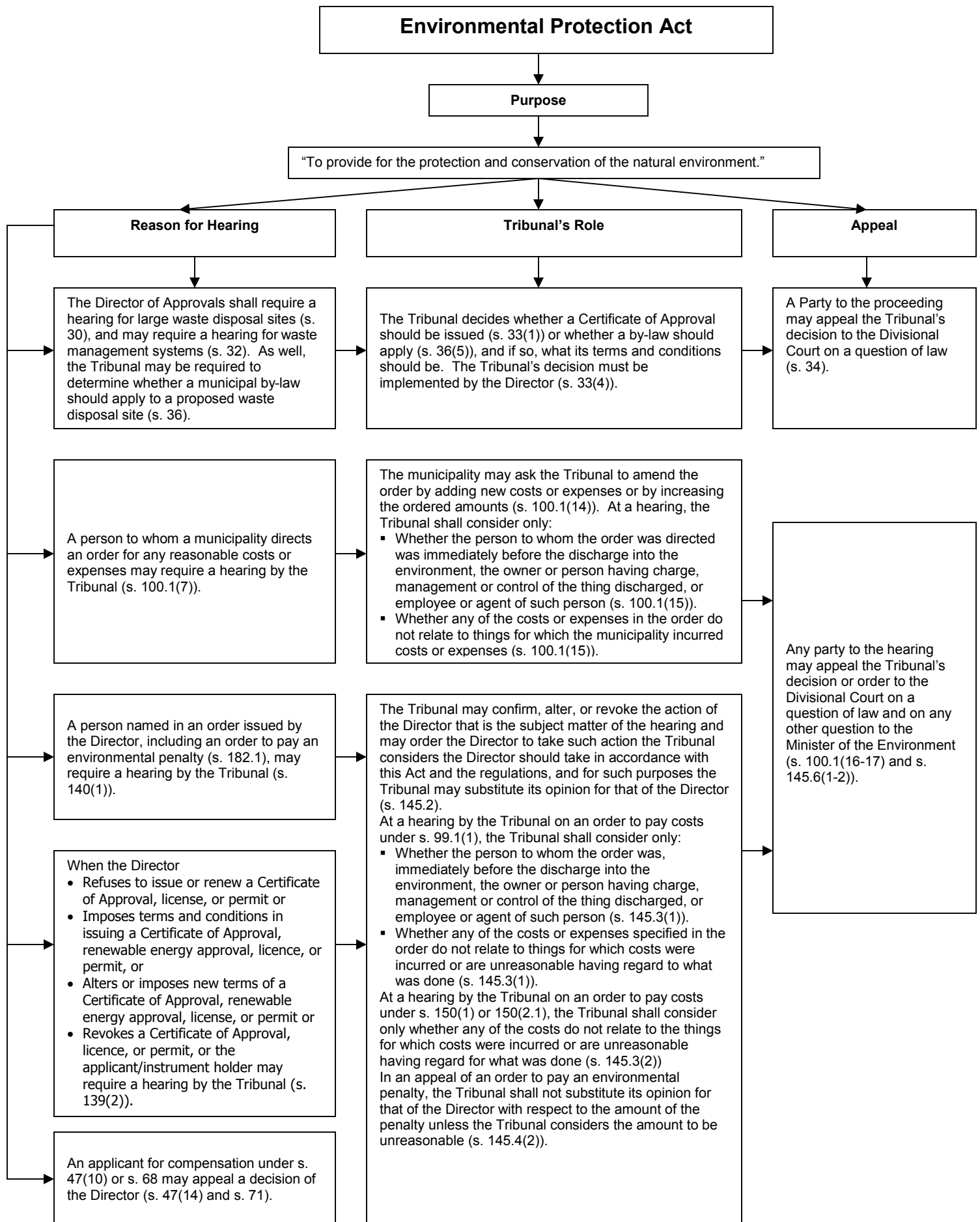
Overview of Relevant Legislation



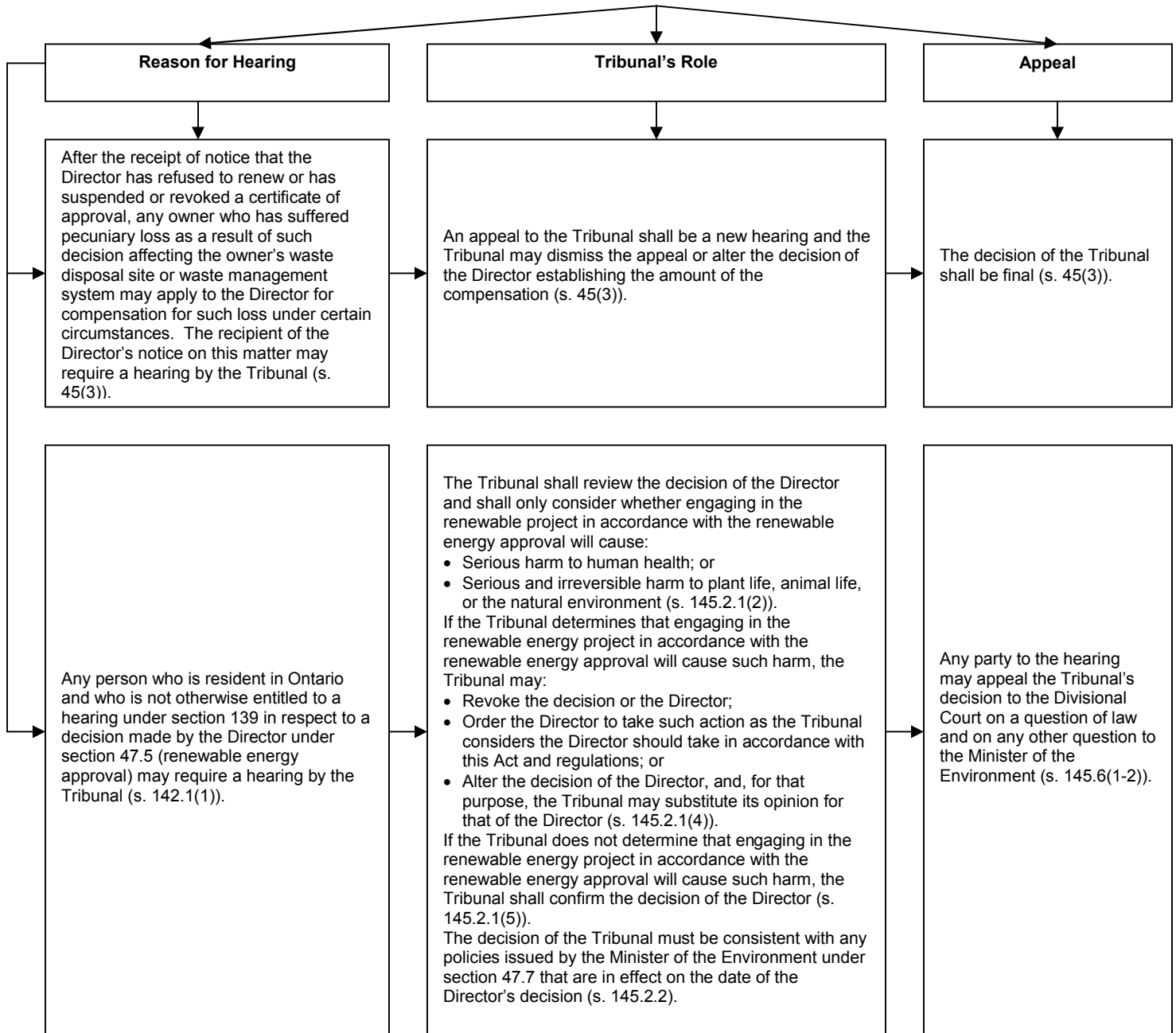








Environmental Protection Act, Continued



Greenbelt Act, 2005

Objectives

- “Establish a network of countryside and open space areas which supports the Oak Ridges Moraine and the Niagara Escarpment.
- Sustain the countryside, rural and small towns and contribute to the economic viability of farming communities.
- Preserve agricultural land as a continuing commercial source of food and employment.
- Recognize the critical importance of the agriculture sector to the regional economy.
- Provide protection to the land base needed to maintain, restore and improve the ecological and hydrological functions of the Greenbelt Area.
- Promote connections between lakes and the Oak Ridges Moraine and Niagara Escarpment.
- Provide open space and recreational, tourism and cultural heritage opportunities to support the social needs of a rapidly expanding and increasingly urbanized population.
- Promote linkages between ecosystems and provincial parks or public lands.
- Control urbanization of the lands to which the Greenbelt Plan applies.
- Ensure that the development of transportation and infrastructure proceeds in an environmentally sensitive manner.
- Promote sustainable resource use.
- Any other prescribed objectives.”

Reason for Hearing

The Minister may appoint a Hearing Officer to conduct a hearing and make written recommendations on proposed amendments to the Greenbelt Plan (s. 12(1)).

The Minister may appoint a Hearing Officer to conduct a Hearing regarding matters stayed before the Ontario Municipal Board or the Joint Board (s. 18(5)).

Hearing Officer's Role*

After the hearing, the Hearing Officer shall report to the Minister and to the prescribed persons and public bodies recommending whether the proposed amendment should be accepted, rejected or modified (s. 13(5)).

The Hearing Officer shall conduct a Hearing and make written recommendations, with reasons, recommending what action the Minister, with the approval of the Lieutenant Governor-in-Council, should take, including making any decision that the Ontario Municipal Board or Joint Board could have made (s. 18(8)).

Next Steps

The Minister will consider the report and submit it to the Lieutenant Governor in Council with such recommendations in respect of the proposed amendment as the Minister considers appropriate, which recommendations may vary from those set out in the report of the hearing officer (s. 13(6)).

The Lieutenant Governor-in-Council may approve the proposed amendment, in whole or in part, make modifications, and approve the amendment as modified or refuse the amendment, in whole or in part (s. 14(1)). The decision is final and not subject to appeal (s. 14(2)).

The Minister may, with the approval of the Lieutenant Governor-in-Council, approve, modify or refuse to approve or modify all or part of the Hearing Officer's recommendations (s. 18(11)). The decision is final and not subject to appeal (s. 18(12)).

* The Tribunal was appointed as the Hearing Officer under the *Greenbelt Act, 2005* on July 6, 2007.

Niagara Escarpment Planning and Development Act

Purpose

"To provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and ensure only such development occurs as is compatible with that natural environment."

Reason for Hearing

A person who receives notice of the Niagara Escarpment Commission's ("NEC") decision regarding a development permit may appeal that decision to the Minister of Natural Resources, who in turn, is required to appoint a Hearing Officer to conduct a hearing at which representations may be made respecting the decision (s. 25(8)).

Where the NEC prepares or receives an application to amend the Niagara Escarpment Plan, it may appoint one or more Hearing Officers for the purpose of receiving representations from the public (s. 10(3)).

Hearing Officer's Role*

After the Hearing, the Hearing Officer shall report to the Minister a summary of the representations made, together with his or her opinion on the merits of the decision (s. 25(11)).

The decision of the NEC is deemed to be confirmed if the opinion of the officer expressed in his or her report is that the decision is correct and should not be changed, and the decision is not appealed by a local municipality, a county, or a regional municipality (s. 25(12)).

The decision of the NEC is also deemed to be confirmed if:

1. The decision was to issue a development permit;
2. The parties who appeared at the hearing have agreed on all the terms and conditions that should be included in the development permit, and the conditions are set out in the Hearing Officer's report; and
3. It is the Hearing Officer's opinion in the report that the decision to issue a development permit with the agreed terms and conditions would be correct and should not be changed (s. 25(12.1)).

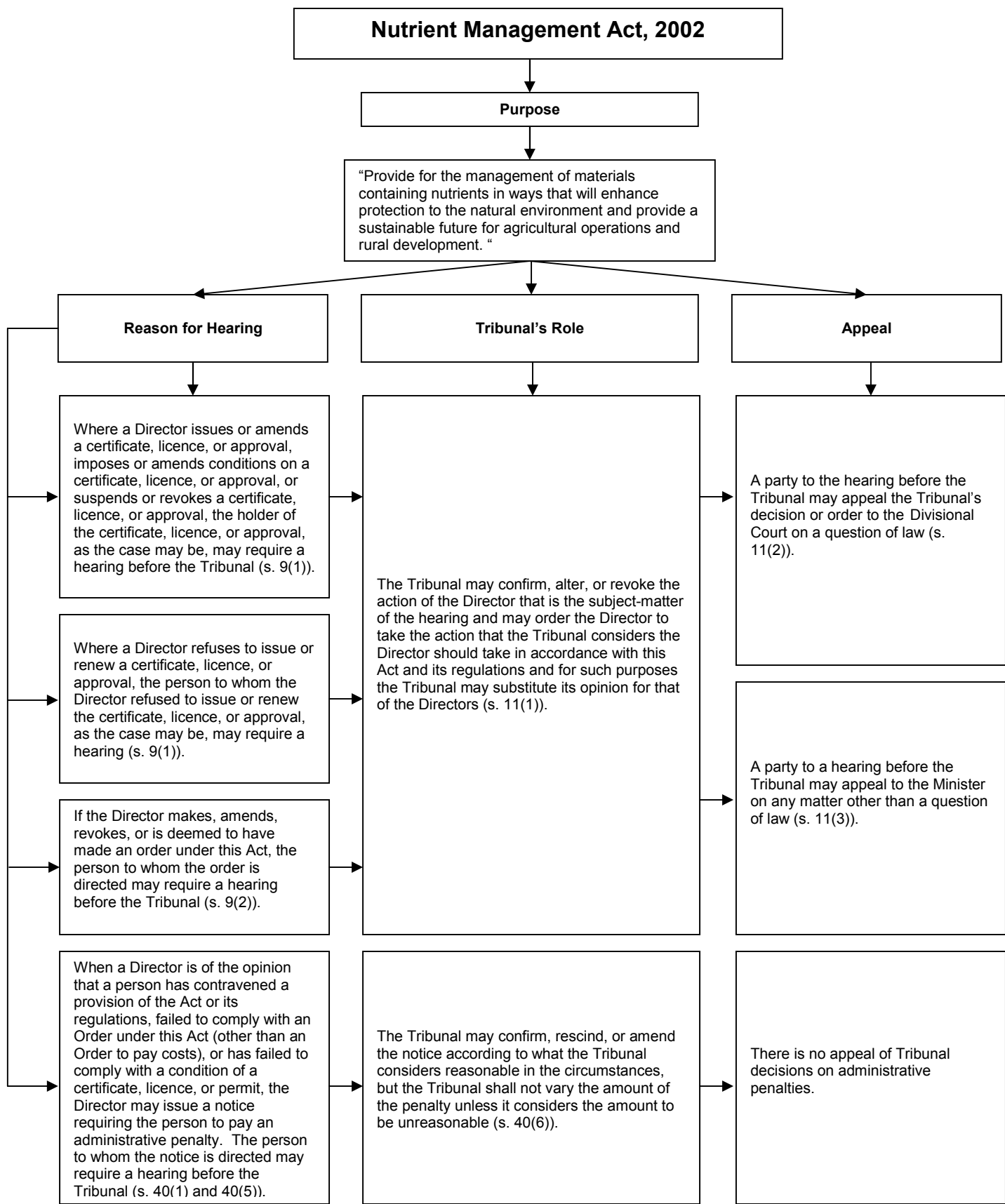
A Hearing Officer shall report to the NEC, with a copy to the Minister, a summary of the representations made, together with his or her opinion and reasons regarding whether the proposed amendment should be accepted, rejected, or modified (s. 10(8)).

Next Step

If the NEC's decision is not deemed to be confirmed, the Minister, after considering the Hearing Officer's report, decides whether to confirm, vary, or make any other decision that in his or her opinion ought to have been made (s. 25(14)).

After considering the Hearing Officer's report, the NEC submits its recommendations to the Minister. In some cases, the Minister may make the final decision. In other cases, the Minister may make a recommendation to the Lieutenant Governor in Council (s.10(12)).

* Members of the Tribunal may be appointed as Hearing Officers under the Niagara Escarpment Planning and Development Act to hear appeals of Niagara Escarpment Commission decisions on development permits and to conduct hearings on applications to amend the Niagara Escarpment Plan.



Oak Ridges Moraine Conservation Act, 2001

Objectives

- "Protect the ecological and hydrological integrity of the Oak Ridges Moraine Area ("ORMA").
- Ensure that only land and resource uses that maintain, improve, or restore the ecological and hydrological functions of the OMRA are permitted.
- Maintain, improve, or restore all the elements that contribute to these functions, including quality and quantity of the OMRA waters and other resources.
- Ensure that the OMRA is maintained as a continuous natural landform and environment for the benefit of present and future generations.
- Provide for land and resource uses and development compatible with the other objectives of the Oak Ridges Moraine Conservation Plan.
- Provide for continued development within existing urban settlement areas and recognize existing rural settlements.
- Provide for continuous recreational trail through the OMRA that is accessible to all including persons with disabilities
- Provide for other public recreational access to the OMRA.
- Any other prescribed objective. "

Reason for Hearing

The Minister may appoint a Hearing Officer to conduct a hearing and make written recommendations with respect to official plan and zoning by-law amendments required to conform to the Oak Ridges Moraine Conservation Plan (s. 10(8)(b)) or with respect to a proposed amendment to the Oak Ridges Moraine Conservation Plan (s. 12(9)).

The Minister may appoint a Hearing Officer to conduct a hearing regarding matters stayed before the Ontario Municipal Board for matters heard under this Act (s. 18(5)).

Hearing Officer's Role*

After the hearing, the Hearing Officer shall prepare written recommendations, with reasons, recommending what action the Minister should take (s. 13(4)).

The Hearing Officer shall conduct a hearing and make written recommendations, with reasons, recommending what action the Minister, with approval of the Lieutenant Governor-in-Council, should take, including making any decision that the Ontario Municipal Board could have made (s. 18(8)).

Next Step

The Minister may approve, modify, or refuse to approve amendments (s. 10(8)(a)) and make regulations (s. 12(9)(a)). The Minister's decision is final and not subject to appeal (s. 12(10)).

The Minister may, with approval of the Lieutenant Governor-in-Council, approve, modify, or refuse all or part of the recommendations (s. 18(11)). Decisions are final and not subject to appeal (s. 18(12)).

* The Tribunal was appointed as the Hearing Officer under the Oak Ridges Moraine Conservation Act, 2001 on July 31, 2006.

Ontario Water Resources Act

Purpose

"To provide for the conservation, protection, and management of Ontario's waters and for their efficient and sustainable use, in order to promote Ontario's long-term environmental, social, and economic well-being."

Reason for Hearing

The Director of Approvals shall require a hearing when a proposed sewage works enters another municipality (s. 54(1)), or prior to defining an area of public water or sewage services (s. 74(4)). The Director may require a hearing with respect to a proposed sewage works within a single municipality (s. 55(1)).

When the Director refuses to issue or renew, or cancels or suspends a licence, permit or imposes terms and conditions in issuing an approval, licence or permit, or alters or imposes new terms and conditions of an approval, licence or permit after it is issued, the applicant may require a hearing by the Tribunal (s. 100(4)).

A person named in an order issued by the Director, including an order to pay an environmental penalty (s. 106.1(1)), may require a hearing before the Tribunal (s. 100(4)).

When the Director proposes to refuse to issue or renew or revoke or suspend a well construction permit, a well contractor licence or a well technician licence, or to alter or impose terms and conditions in a well construction permit, the permit/licence holder/applicant may require a hearing by the Tribunal (s. 47(1)).

Tribunal's Role

The Tribunal decides whether a Certificate of Approval should be issued, and if so, what its terms and conditions should be (s. 54) or it designates an area as an area of public water or sewage service (s. 74). The Tribunal is not required to hold a hearing if no person objects to the proposed works or if the objections are insufficient (s. 8(2)). The Tribunal's decision must be implemented by the Director (s. 7(4)).

The Tribunal may confirm, alter or revoke the action of the Director that is the subject of the hearing and may order the Director to take such action as the Tribunal considers the Director should take and for such purpose the Tribunal may substitute its opinion for that of the Director (s. 100(10)).

In an appeal of an order to pay costs, the Tribunal shall consider only whether any of the costs specified in the order:

1. Do not relate to a thing that the person was required to do by a direction, order, or decision made under this Act; or
2. Are unreasonable having regard to what was done (s. 86).

In an appeal of an order to pay an environmental penalty, the Tribunal shall not substitute its opinion for that of the Director with respect to the amount of the penalty unless the Tribunal considers the amount to be unreasonable (102.1(2)).

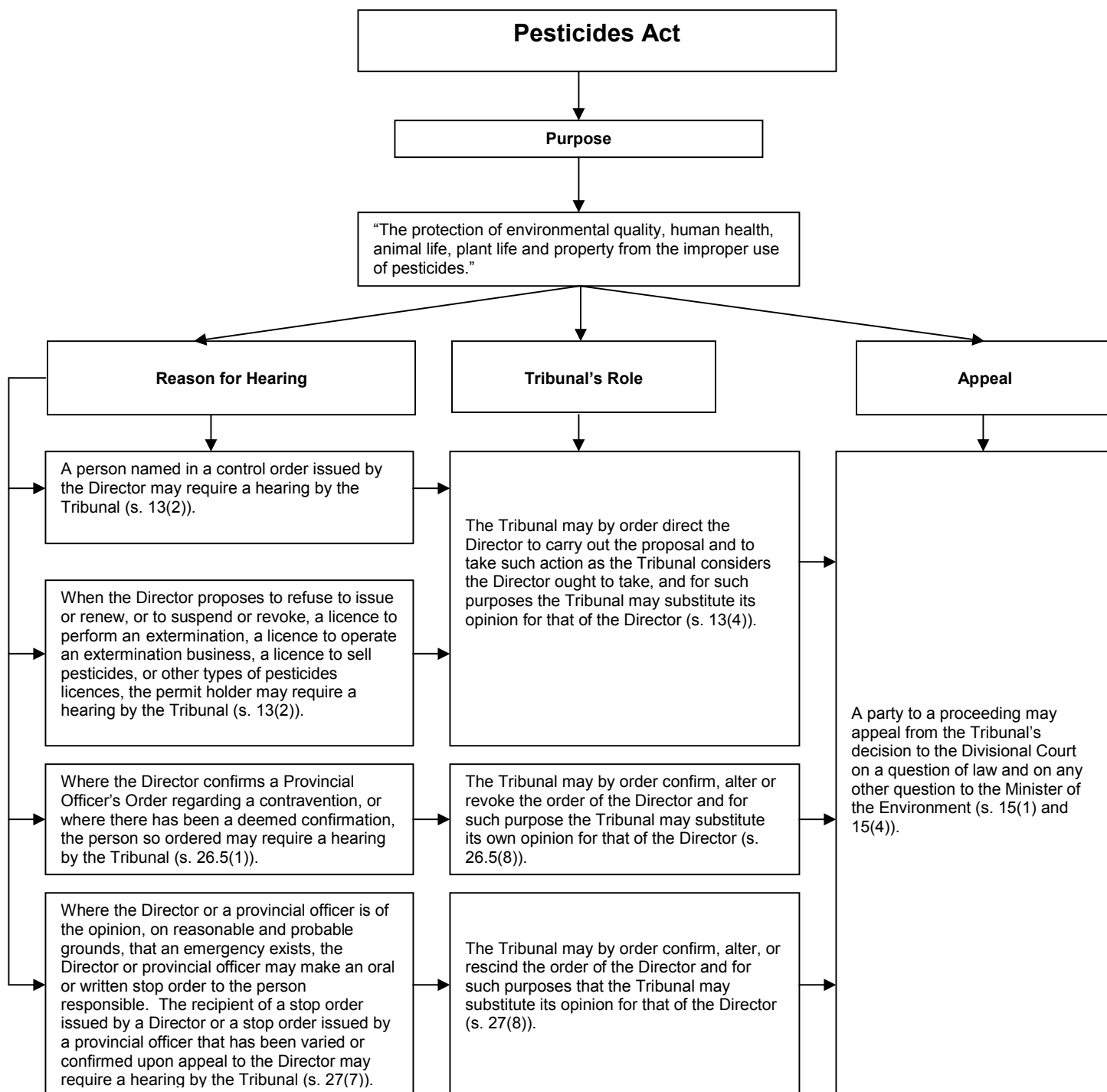
The Tribunal may order the Director to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Director ought to take in accordance with sections 35 to 50 and the regulations, and for such purposes may substitute its opinion for that of the Director (s. 47(2)).

Appeal

A party to the proceeding may appeal the Tribunal's decision to the Divisional Court on a question of law (s. 9).

A party to the hearing may appeal the Tribunal's decision or order to the Divisional Court on a question of law (s. 102.3(1)).

A party to the proceeding may appeal the Tribunal's decision or order to the Divisional Court on a question of law (s. 47(10)).



Safe Drinking Water Act, 2002

Purpose

"To recognize that the people of Ontario are entitled to expect their drinking water to be safe. To provide for the protection of human health and the prevention of drinking water health hazards through the control and regulation of drinking water systems and drinking water testing. "

Reason for Hearing

Each of the following decisions of a Director under this Act is a reviewable decision (s. 127(1)):

- A refusal to issue or amend a permit, licence, or approval.
- A refusal to grant a consent for the fragmentation of a non-municipal drinking-water system.
- A decision to impose, vary, or remove conditions on a permit, licence, or approval.
- A refusal to impose a condition in a permit, licence, or approval.
- A decision to suspend a licence or approval, other than a suspension of a drinking-water testing licence ordered by the Minister under section 108.
- A decision to revoke a permit, licence, or approval.
- A refusal to extend the expiry date of a drinking water licence under subsection 44(6) or 73(5).
- A refusal to renew a licence or approval.
- A refusal to consent to the transfer of a licence.
- A decision to issue an order.
- A decision to confirm, amend, or revoke an order made by a Director or a provincial officer.

NOTE: A refusal by a Director or provincial officer to issue, amend, or revoke an order is not a reviewable decision (s. 127(3)).

The following is also a reviewable decision (s. 127(1)):

- A decision to issue an order to pay costs under s. 122.

Tribunal's Role

The Tribunal may confirm, vary, or revoke the decision of the Director. The Tribunal may direct the Director to take such action as the Tribunal considers necessary for the purposes of this Act. The Tribunal may substitute its opinion for that of the Director (s. 132(2)).

The Tribunal may only confirm, vary, or revoke the decision (s. 133(2)).
The Tribunal may only consider:

- whether the cost relates to something done in connection with a notice of emergency response or appointment of interim operating authority
- whether the cost is reasonable, having regard to the nature of that thing (s. 133(4)).

Appeal

A party to a hearing before the Tribunal may appeal to the Divisional Court on a question of law from the decision or order of the Tribunal in accordance with the rules of the Court (s. 134(1)).

A party to a hearing before the Tribunal may make a written appeal to the Minister from the Tribunal's decision on any matter other than a question of law within 30 days from the receipt of the notice of the Tribunal's decision, or within 30 days after the disposition of an appeal to the Divisional Court. The Minister may, if he or she deems it necessary for the purposes of this Act, confirm, vary, or revoke the Tribunal's decision (s. 135(1) and 135(2)).

There is no appeal of Tribunal decisions on cost orders (s. 134(2)).

Toxics Reduction Act, 2009

Purpose

"To prevent pollution and protect human health and the environment by reducing the use and creation of toxic substances, and to inform Ontarians about toxic substances."

Reason for Hearing

A person who is served with an order of the Director pursuant to sections 29 or 30 may require a hearing by the Tribunal (s. 32(1)).

Tribunal's Role

The hearing by the Tribunal shall be a new hearing and the Tribunal may confirm, alter, or revoke the order that is the subject matter of the hearing and may by order direct the Director to take such action as the Tribunal considers the Director should take in accordance with this Act and the regulations, and, for such purposes, the Tribunal may substitute its opinion for that of the Director (s. 37).
If the decision of the Tribunal is with regard to a penalty imposed under section 30, the regulations made under section 50 (1) (s) governing the determination of the amounts of those penalties apply to the Tribunal (s. 38(1)). Also, the Tribunal shall not substitute its opinion for that of the Director with respect to the penalty unless the Tribunal considers the amount to be unreasonable (s. 38(2)).

Any party to a hearing may appeal the Tribunal's decision to the Divisional Court on a question of law (s. 39(1)), and on any other question to the Minister of the Environment (s. 39(2)).

Rules of Practice and Practice Directions

The Tribunal's Rules of Practice and Practice Directions are reviewed and revised as necessary to reflect the changing needs of the Tribunal and the public. The Tribunal provides an opportunity for its stakeholders and the public at large to review its proposed Rules when revisions are being considered.

During 2009-2010, as a result of new provisions regarding renewable energy approval appeals under the Environmental Protection Act, the Tribunal is revising its Rules of Practice and Practice Directions. A consultation is planned for spring 2010.

The Tribunal's Rules are available on the website or by paper copy, upon request.

Agency Cluster

In November 2009, Michael Gottheil was appointed Chair of the Environmental Review Tribunal and, as Executive Chair, to lead the Environment and Land Tribunals Ontario cluster.

ELTO is a group of five tribunals that resolve appeals, applications and other disputes, under some 100 statutes, in relation to land use planning, environmental and heritage protection, property assessment, land valuation and other matters.

ELTO is the first cluster of tribunals created under the authority of the Adjudicative Tribunals Accountability, Governance, and Appointments Act, 2009. That Act permits the government to designate two or more adjudicative tribunals as a cluster if, in the opinion of the Lieutenant Governor in Council, the matters that the tribunals deal with are such that they can operate more effectively and efficiently as part of a cluster than alone.

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.

SECTION 2: Operations 2009-2010

Caseload 2000-2010

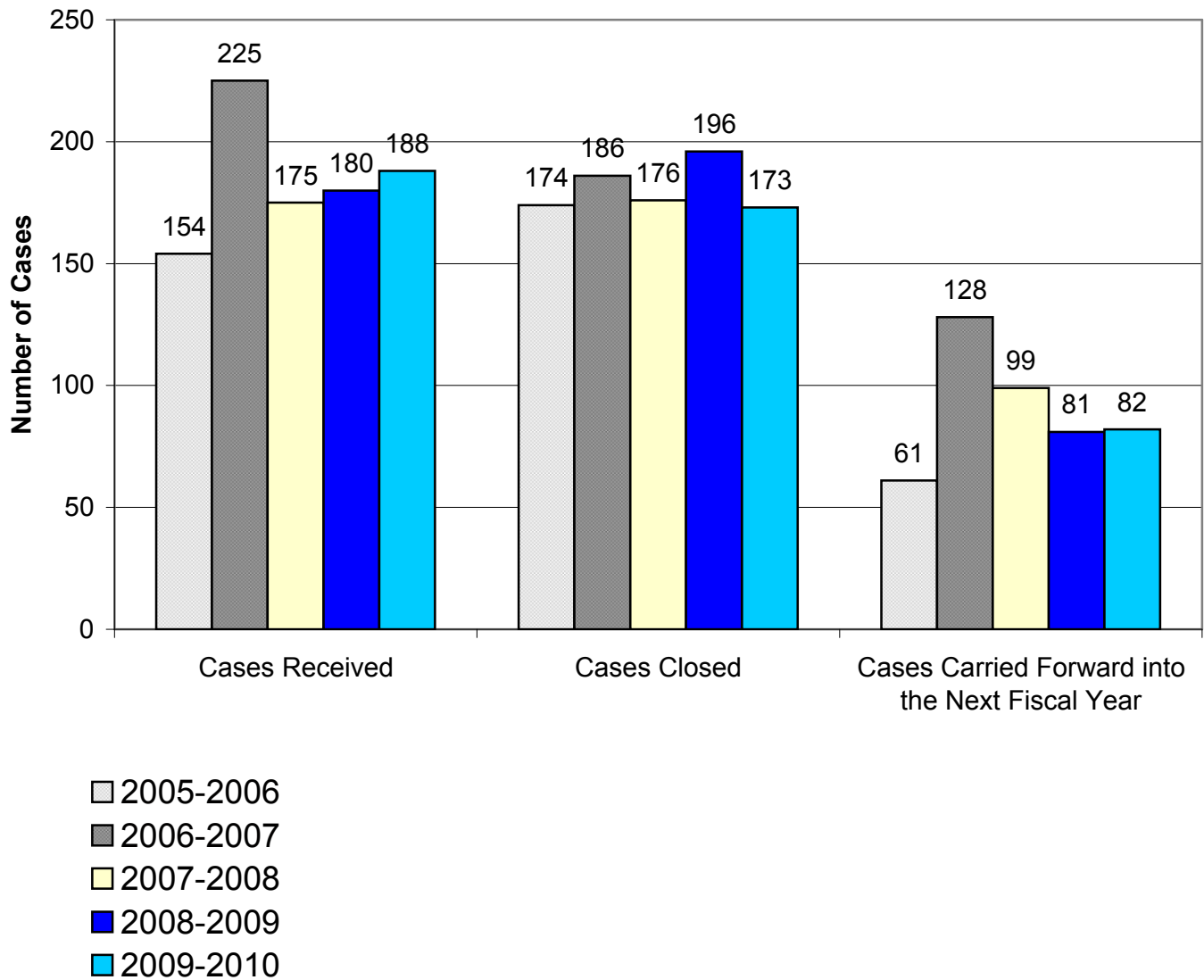
Case Type	No. of Unresolved Cases from 2008-2009	No. of New Cases Received	No. of Cases Resolved by Decision	No. of Cases Resolved by Approved Settlements	No. of Cases Closed by Other Means*	No. of Cases Carried Forward into 2010-2011	No. of Hearing Days held**	No. of Motion Days held	No. of Mediation Days held	No. of Pre-Hearing Conference Days held	No. of Requests for Costs/ [Review]
EPA											
Appeals	10	55	38	9	15	39	77	33	60	N/A	1 [1]
OWRA											
Appeals	1	10	0	7	2	3	3	2	1	N/A	
SDWA, 2002											
Appeals	0	2	2	1	1	1	9	0	1	N/A	
NEPDA											
Develop. Permit Appeals	15	94	28	N/A	48	33	58	0	N/A	42	
CHA											
Applications	3	0	0	0	0	3	9	3	2	N/A	
EBR, 1993***											
Leave to Appeal Applications	0	27	26	0	2	2	N/A	N/A	N/A	N/A	2
Total	29	188	94	17	68	82	156	38	64	42	4

* Withdrawal by applicant/appellant; case abandoned

** Includes Preliminary Hearings

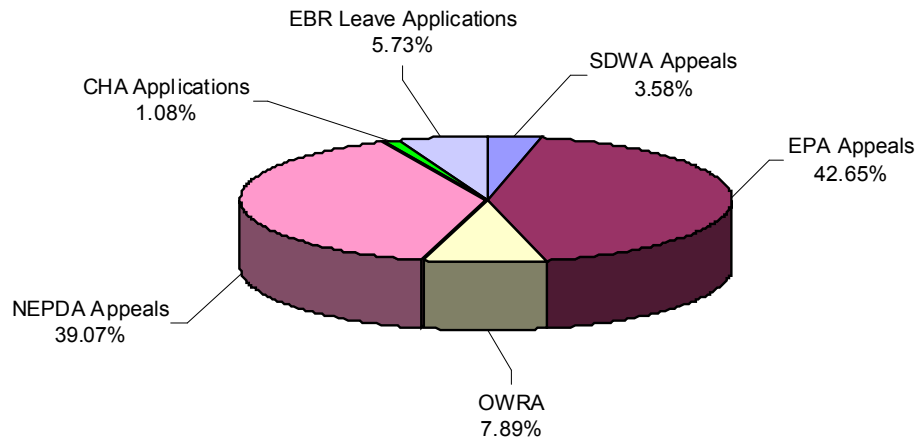
*** Written Hearings

Five Year Trend of Cases Received, Closed and Carried Forward 2005-2006 to 2009-2010

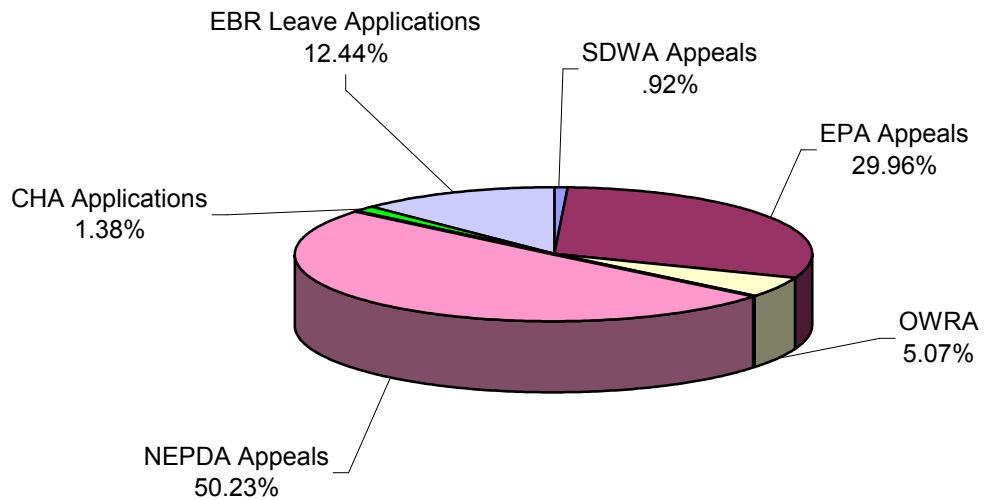


NOTE: Since cases carried forward into the next fiscal year are still active, the statistics reported will vary following the release of the Annual Report. In the 2007-2008 Annual Report, the number of cases carried forward for 2004-2005 and 2005-2006 were incorrectly reported as 76 and 60.

Total Number of Cases in 2008-2009 by Case Type



Total Number of Cases in 2009-2010 by Case Type



Total Number of Appeals/Applications Received by Case Type

Fiscal Years 2005 – 2006 to 2009 – 2010

	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
<i>Environmental Bill of Rights, 1993</i>	8	48	8	14	27
<i>Environmental Protection Act</i>	41	52	37	70	55
<i>NEPDA – Development Permits</i>	82	105	110	78	94
<i>Nutrient Management Act, 2002</i>	1	0	0	0	0
<i>Ontario Water Resources Act</i>	15	18	18	7	10
<i>Pesticides Act</i>	1	0	0	0	0
<i>Safe Drinking Water Act, 2002</i>	0	1	2	8	2
<i>Clean Water Act, 2006*</i>	N/A	N/A	N/A	0	0

* Date Proclaimed June 3, 2007

Total Number of Requests for Hearing Received

Fiscal Years 2005 – 2006 to 2009 – 2010

	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
<i>Consolidated Hearings Act</i>	2	1	0	3	0
<i>NEPDA – Plan Amendments</i>	4	0	0	0	1
<i>Oak Ridges Moraine Conservation Act, 2001*</i>	N/A	0	0	0	0
<i>Greenbelt Act, 2005**</i>	N/A	N/A	0	0	0

* On July 31, 2006, the Tribunal received authority to be the Hearing Officer

** On July 6, 2007, the Tribunal received authority to be the Hearing Officer

Consolidated Hearings under the Consolidated Hearings Act

The Environmental Review Tribunal has administrative responsibility for the Consolidated Hearings Act (CHA). This administrative responsibility is conducted under the designation as the Office of Consolidated Hearings. During 2009-2010, the Office of Consolidated Hearings did not receive any requests for a consolidated hearing.

The following table sets out the legislation relevant to those requests for consolidated hearings for cases that have been carried forward from fiscal year 2008-2009.

Case Name and Number	<i>Aggregate Resources Act</i>	<i>Niagara Escarpment Planning and Development Act</i> (Development Permit)	<i>Ontario Water Resources Act</i>	<i>Planning Act</i>
Nelson Aggregate Co. (08-030)	X	X		X
Walker Aggregates Inc. (08-094)	X	X		X
Ponderosa Nature Resort (08-179)			X	X

In-House Learning Programs

The Tribunal continues to conduct in-house Learning Programs and training sessions for its Members and staff. The Learning Programs and training sessions provide opportunities for the Tribunal to hear guest speakers and to receive information on relevant administrative, environmental and planning law issues. This fiscal year, the Members' training sessions included updates on the Accessibility Policy, IT Security, Travel Directive, and Westlaw update – Law Source. The Tribunal also hosted a number of outstanding speakers at its Learning Programs.

Learning Programs		
Date	Topic	Presenters/Visitors
April 17, 2009	Ministry of Environment Updates	
	Environmental Assessment Act, Waste Management Projects	Mohsen Keyvani, Senior Program Support Coordinator, Approvals and Brownfields Support Unit, MOE
	Environmental Assessment Transit Regulation	May Lyn Trudelle, Senior Program Support Coordinator, Environmental Assessment Support Unit, MOE
	Green Energy and Green Economy Act, 2009	Marcia Wallace, Manager, Renewable Energy project, Program planning and Implementation Branch, MOE
June 12, 2009	Green Energy Issues	
	Kortright Centre	
	Power Trip Trail and Energy Cottage Visit	Teresa Ennamorato, Kortright Centre, Parks and Culture
	Guided Tour of the Archetype Sustainable Houses	Manager, Outreach Program
	Adventure Nature Walk	

September 18, 2009	Ministry of Environment Updates Green Energy Regulation 419 (Air Pollution-Local Air Quality) Toxics Reduction Strategy	Tim Krsul, Senior Program Advisor – Renewable Energy Project, MOE Cathy Grant, Engineering Specialist, Air Standards and Risk Management, Standards Development Branch, MOE Mary Anne Covelli, Director, Toxics Reduction project, and Nancy Hartry, Legal Counsel, MOE
December 4, 2009	Ministry of Environment Updates Green Energy and Green Economy Act, 2009 and Regulations Update Bill 185, Environmental Protection Amendment Act (Greenhouse Gas Emissions Trading), 2009 Bill 212 (Overview of Specific Provisions re the Environmental Review Tribunal)	Marcia Wallace, Manager, Renewable Energy Project, Program Planning and Implementation Branch, MOE Heather Pearson, Executive Lead, Cap and Trade, Air Policy Instruments and Program Design, MOE Christina Sokulsky, Senior Counsel
February 26, 2010	Ministry of Environment Updates Annual Report – ECO Brownfields Update	Gord Miller, Environmental Commissioner of Ontario Rosemary Ash, Team Lead, Brownfields Filing and Review, Approvals and Brownfields Support Unit, Environmental

	Ontario Regulation 419/05 – Air Pollution/Local Air Quality Update	Assessment and Approvals Branch, MOE Cathy Grant, Engineering Specialist, Air Standards and Risk Management, Standards Development Branch, MOE
--	--	---

Visitors to the Environmental Review Tribunal

The Environmental Review Tribunal provided outreach information sessions that included an overview of our legislation, hearing processes and procedures, Rules of Practice and Practice Directions, and Conflict of Interest Policy.

During fiscal year 2009-2010, the following delegations visited the Environmental Review Tribunal:

July 27, 2009	Administrative Appeals Commission Taipei City Government
October 23, 2009	Sino-Canada Technology Exchange Centre Mr. Yukun Bao, the Leader and Deputy Secretary-General of the Guizhou Provincial Peoples Congress, Beijing, China

SECTION 3: Financial Summary

2009-2010 Financial Report

ACCOUNT ITEMS	Actual Expenditures (\$)
Salary and Wages	1,056,615
Transportation and Communications	31,657
Services	441,101
Supplies & Equipment	30,310
TOTAL	1,546,400*

** In 2009-10, the Tribunal had a deficit of \$65,800 due to normal operational variances.*

Employee Benefits were managed centrally by the Ministry of the Environment.

SECTION 4: ERT Members 2009-2010

Chair	Original ERT Appointment
Michael Gottheil	November 2, 2009
Executive Vice-Chair	
Toby Vigod	December 1, 2004
Vice-Chairs	
Jerry V. DeMarco	June 27, 2005
Heather Gibbs	September 20, 2006
Paul Muldoon	April 4, 2006
Dirk VanderBent	September 18, 2006
Robert V. Wright	August 27, 2007
Part-time Members	
Alan D. Levy	May 9, 2007
Bruce Pardy	June 22, 2005
Dayna Nadine Scott	May 9, 2007*
Marcia Valiante	May 9, 2007
Joyce M. Young	April 11, 2006*

*Indicates Members who were no longer with the ERT as of March 31, 2010