

Annual Report of the Normal Farm Practices Protection Board April 1, 2013 to March 31, 2014

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Message from the Chair

I am pleased to present the Annual Report of the Normal Farm Practices Protection Board (the Board) for the fiscal year April 1, 2013 to March 31, 2014. This report focuses on the Board's activities and performance.

The Board operates under *The Farming and Food Production Protection Act, 1998* (the Act) to hold hearings on complaints about farm practices, and to rule on whether the farm practices are "normal farm practices."

The Act protects farmers from nuisance complaints about disturbances that are caused by "normal farm practices." These disturbances include odour, dust, flies, light, smoke, noise and vibration. Also, if a farmer's activity is ruled as a "normal farm practice," that activity would be exempt from a municipal by-law that might restrict it.

The Preamble of the Act expresses a need to balance the needs of the agricultural community with provincial health, safety and environmental concerns. The Board aims to achieve that balance in its rulings. Also, we conduct hearings in such a way that we maintain natural rules of justice, but also make people feel at ease, while preserving decorum and respect for everyone who appears before us. Also, people can appear before the Board with or without legal counsel. This ensures that all citizens have access to the services of the Board.

During the period of this report, the Ministry of Agriculture and Food and the Ministry of Rural Affairs (OMAF and MRA) received 156 nuisance complaints about farm practices. These complaints first go through a conflict resolution process mandated by the Board. In this process, Ministry agricultural engineers and environmental specialists resolved 153 (98 percent) of these complaints; only three were referred to the Board. However, there were additional cases before the Board: one continuing case from the previous year, and two cases that resurfaced from previous years. Altogether, the Board handled six cases this past fiscal year.

From a governance perspective, we reminded Board members of the requirements of the *Adjudicative Tribunal Accountability, Governance and Appointments Act, 2009*, and all accountability documents mandated by that Act are in place. Board member expenses were all processed and reimbursed within the guidelines of the

Travel, Meal and Hospitality Expenses Directive.

The Board generally achieved performance standards for service and delivery. I have mentioned the successful conflict resolution system. We also maintain standards for response times when people apply to the Board for hearings. These standards were exceeded in one instance because of complex legal issues.

The annual report also details Board activities regarding assistance to clients and meeting governance standards.

Total operating expenditures for the 2013-2014 fiscal year were \$23,171. This amounted to 39.3 percent of the budgeted amount of \$59,000, for reasons explained in the section on Financial Performance.

Kirk Walstedt, Chair
Normal Farm Practices Protection Board

Introduction

The Normal Farm Practices Protection Board ("the Board") is an adjudicative agency of the Government of Ontario. Its purpose is to rule on conflicts about farming practices, under the *Farming and Food Production Protection Act, 1998* (the Act).

Conflicts sometimes arise over disturbances caused by farming practices. These disturbances may lead to nuisance complaints about odour, dust, flies, light, smoke, noise or vibration. Conflicts may also arise if a farmer feels that a municipal by-law is restricting his farming practice. Under the Act, a farming practice is protected from nuisance complaints or municipal by-laws if the practice is a "normal farm practice." The Board hears complaints about farm practices, applications concerning by-laws, and referrals from judges.

The Act defines "normal farm practice" as a farm practice that:

- a. is conducted in a manner consistent with proper and acceptable customs and standards, as established and followed by similar agricultural operations under similar circumstances, or
- b. makes use of innovative technology in a manner consistent with proper advanced farm management practices, or
- c. is in line with a regulation made under the *Nutrient Management Act*.

Complaints about farm practices go through two stages of mediation before they are heard by the Board. First, agricultural engineers or environmental specialists in OMAF and MRA conduct conflict resolution on each complaint. This conflict resolution process is required by the Board, and it successfully resolves over 95 percent of all complaints (98 percent this fiscal year). Secondly, for unresolved complaints, the Board holds a pre-hearing/settlement conference with the parties before proceeding to a full hearing. The pre-hearing portion identifies issues and determines logistics (dates, exchange of documents, numbers of witnesses) for the hearing. The settlement portion is a mediation exercise by the Chair or Vice-Chair of the Board, to attempt to resolve the issues and avoid the hearing. If the settlement conference is unsuccessful, the Board conducts a hearing to determine whether the farm practice involved is a "normal farm practice."

Following the hearing, the Board may rule that the practice:

1. is a normal farm practice
2. is not a normal farm practice, or
3. must be modified in a specific manner to make it a normal farm practice.

If the Board rules that the farm practice is "normal," the farmer can continue it in spite of the nuisance complaint or the restrictive by-law. If the practice is ruled to be not "normal", the farmer would have to stop it (in the case of a nuisance complaint) or comply with the by-law (in the case of a by-law complaint). The Board may also rule that the practice would be "normal" if specific modifications are made.

Complaints about Farm Practices

OMAF and MRA received 156 complaints regarding farm practices in 2013-2014. The numbers of complaints received annually for the last five years are shown in Table 1. The table, illustrated by the graph in Figure 1,

present the distribution of these complaints by nuisance type for each year. The total number of complaints decreased for the second successive year, following a cyclical pattern demonstrated in Figure 2. Table 1 shows that, in 2013-2014, 34 percent of complaints were about odour, 36 percent about noise and 12 percent about flies. The pie chart in Figure 3 compares the incidence of the types of complaints in 2013-2014.

Odour and noise have consistently been the highest sources of complaints. Odour complaints tend to arise from the spreading of manure or cleaning of livestock barns. Complaints about flies have fallen back from their high level of the previous two years ago, because of enhanced barn management and favourable environmental factors. Table 2 and Figures 5 to 9 (Appendix A) present the distribution of complaints by county in 2013-14. These charts show that 65 percent of all complaints about farming practices in Ontario were concentrated in the Niagara Region. Niagara reported more than half (53%) of all odour complaints, 87 percent of all noise complaints and 83 percent of all fly complaints; only in by-law complaints did Niagara not exceed the other counties.

This reflects the unique nature of Niagara, the premier wine- and fruit-producing region of Ontario. The region has the following characteristics, which tend to promote complaints about farm practices:

- A high population density in an agricultural region;
- Many farms of small acreage;
- Intensive cropping of fruit and grape farms because of the high value of their produce;
- Intensive use of noise-making equipment to protect grapes and fruits from birds, and of wind machines to protect grape vines from frost;
- Highest density of roads in the province;
- Popular retirement area because of the weather and natural beauty.

Led by OMAF and MRA engineers, Niagara has become a leading area of research and community collaboration in managing noise disturbances.

Table 1. Farm Practice Complaints Received by OMAFRA

	Odour	Noise	Dust	Flies	Smoke	Light	Vibration	By-Law	Total
2013-2014	53	56	7	18	3	0	0	19	156
	34%	36%	4%	12%	2%	0%	0%	12%	100%
2012-2013	65	42	7	35	3	3	0	9	164
	39.6%	25.6%	4.3%	21.3%	1.8%	1.8%	0.0%	5.5%	100%
2011-2012	77	73	10	34	4	6	0	2	206
	37%	35%	5%	17%	2%	3%	0%	1%	100%
2010-2011	46	70	11	12	0	3	1	7	150
	31%	47%	7%	8%	0%	2%	1%	5%	100%
2009-2010	43	72	6	4	2	0	0	9	136
	32%	53%	4%	3%	1%	0%	0%	7%	100%
2008-2009	43	111	7	7	2	0	1	5	176
	24%	63%	4%	4%	1%	0%	1%	3%	100%
2007-2008	103	71	17	5	3	0	0	4	203
	51%	35%	8%	2%	1%	0%	0%	2%	100%

The tables and charts show primary complaints only. "Primary" complaints refer to cases where the nuisance mentioned is the only or the major cause of the complaint. Many cases include complaints about multiple nuisances. For example, a complaint about noise from tractors working at night may also name light and vibration; a complaint about odour from a manure pile may include flies. When the case involves multiple nuisances, the main nuisance is identified as a Primary Complaint; the others as Secondary Complaints.

Figure 1: Trend in No. of Complaints by Type of Nuisance

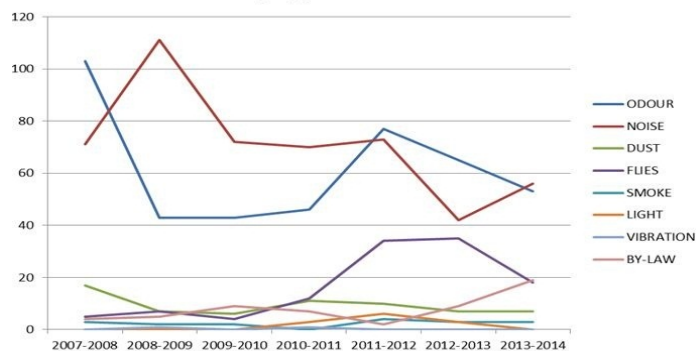


Figure 2: Trend in Total Numbers of Complaints

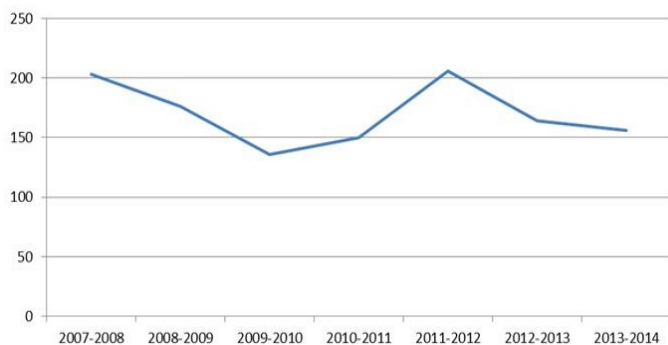


Figure 3: Types of Complaints by Percentage (2013-2014) (Primary Complaints Only)

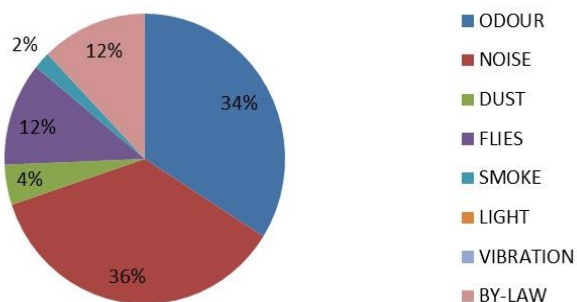


Figure 3. Types of Complaints by Percentage (2013-2014) (Primary Complaints only)

Table 2. Distribution of Complaints by County (2013-2014)

County	Odour	Noise	Dust	Flies	Smoke	By-Law	County Totals	County %
Algoma District						1	1	1%
Brant County	2						2	1%
Durham Region	3					3	6	4%
Elgin County	3			1			4	3%
Greater Sudbury	1					2	3	2%
Haldimand County	4					1	5	3%
Halton Region						1	1	1%
Huron County						5	5	3%
Lennox & Addington County	1						1	1%
Lincoln County		1					1	1%
Middlesex County	2	1					3	2%

Niagara County	28	49	6	15	2	1	101	65%
Norfolk County				1			1	1%
Northumberland	1					1	2	1%
Ottawa		3			1		4	3%
Oxford County	1						1	1%
Perth County	2						2	1%
Simcoe						1	1	1%
Stormont, Dundas & Glengarry	2	1		1			4	3%
Waterloo County	1	1	1				3	2%
Wellington County	1						1	1%
York Region	1					3	4	3%
Total	53	56	7	18	3	19	156	100%

Board Activities - Hearings

Cases for the Fiscal Year 2013-2014

As stated earlier, the Board is established under the Act to hear complaints about farm practices, applications regarding by-laws, and referrals from judges. From the hearing, the Board determines whether the farm practice in question is a "normal farm practice." All cases (except referrals from judges) must first go through a conflict resolution process before the Board can hear them.

In 2013-2014, the Board handled six cases, described below:

- [2013-04 Yake v. Town of Uxbridge](#)
- [2013-03 Sproul v. County of Huron](#)
- [2013-01 Boon v. County of Central Huron](#)
- [2012-05 Macpherson v. County of Huron](#)
- [2011-03 Taouil v. Mastronardi](#)

Case 2013-04 Yake v. Town of Uxbridge

Issue: By-law: land application

Description:

A farmer complained to the Board that the municipality was preventing him from bringing in sufficient landfill to cover his tile drains. While the application was in process, however, the farmer asked that the application be put on hold, pending the results of his proceedings with the municipality.

Status: On Hold

Case 2013-03 Sproul v. County of Huron

Issue: By-law - tree-cutting

Description:

A farmer applied for relief against a tree-cutting by-law in the County of Huron. The case proceeded through several pre-hearing teleconferences and is proceeding to a full hearing.

Status: Case in progress

Case 2013-01 Boon v. County of Central Huron

Issue: By-law - municipal drain

Description:

This is a drainage case which went through the full drainage adjudication process, including an Appeal Tribunal hearing. The Tribunal ruled against the applicant. He then applied to the NFPPB on the grounds that the municipal drainage by-law was interfering with his normal farm practice. While the matter was proceeding through pre-hearing processes, the applicant withdrew their application.

Status: Withdrawn

Case 2012-05 Macpherson v. County of Huron

Issue: By-law - tree-cutting

Description:

This case carried over from the previous fiscal year. A farmer sought relief from the Board from a tree-cutting by-law in the County of Huron. The Board held a pre-hearing conference, and has since held two motion hearings. A hearing date will be set after resolution of the motions.

Status: In progress

Case 2011-04 Bannon v. Mastronardi

Issue: Noise

Description:

A municipal resident applied for a hearing on the grounds that a farmer's bird banger was threatening her health. The parties reached an agreement at a pre-hearing/settlement conference in 2012. In August 2013 the applicant returned to the Board to request a hearing, on the grounds that the farmer had not followed the agreement and the bird banger was again threatening her health. Further conflict resolution was unsuccessful, and the matter is proceeding within the Board's hearing process.

Status: In progress

Case 2011-03 Taouil v. Mastronardi

Issue: Noise

Description:

The applicant said that the neighbouring farmer was using a bird banger inappropriately, causing constant excessive noise to the applicant. Through the pre-hearing/settlement conference, the parties agreed in 2011 to work with OMAF and MRA's bird banger expert to resolve the issues. The two parties reached a negotiated settlement in July 2012. The settlement failed, and in March 2013 the parties returned to the Board. After renewed negotiations, the parties signed a new agreement and the applicant withdrew their application.

Status: Resolved through agreement.

Cumulative Hearing Record - Supporting the Intent of The Act

Supporting the Intent of the Act

In its Preamble, the *Farming and Food Production Protection Act*, 1998 states:

It is in the provincial interest that in agricultural areas, agricultural uses and normal farm practices be promoted and protected in a way that balances the needs of the agricultural community with provincial health, safety and environmental concerns.

The Board continues to monitor its effectiveness in supporting these principles. Below is a summary of the disposition of all cases (85) handled by the Board since the Act was amended in 1998 to the end of 2013-2014. (No full hearings were completed in 2013-2014.) These results are presented in chart form in Figure 4, and tabulated in Appendix B (page 15).

Disposition of all cases (85) completed from 1998 to 2014:

- 17 (20%) decisions in favour of applicants (generally residents)
- 25 (29%) decisions in favour of respondents (generally farmers)

- 19 (22%) agreements between parties
- 13 (15%) withdrawn without resolution
- 6 (7%) closed with no action by applicant
- 1 (1%) went to litigation
- 4 (5%) denied or referred to another jurisdiction

These results indicate that the Board has been effective in balancing the needs of the agricultural community with provincial health, safety and environmental concerns, and with the needs of rural residents. In general, 29 percent of the cases heard were decided in favour of the farmer, and 20 percent in favour of the resident.

Figure 4: NFPPB Case Disposition, 1998-2014

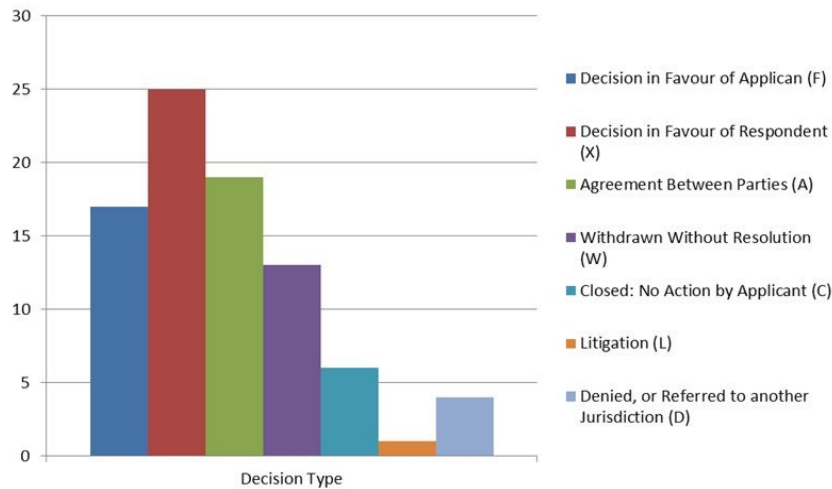


Figure 4. NFPPB Case Disposition (1998-2014)

Board Activities - Assisting Clients

Preparation for Hearings

The Board tries to make it easier for farmers and residents to attend hearings:

- It holds the hearing in the municipality where the complaint originates.
- There is no charge for applying for, or participating in, a hearing.
- Legal counsel is not required, but parties may, if they wish, retain legal counsel at their own expense.

To help parties who do not have legal counsel, the Board developed a *Citizen's Guide to the FFPPA and the NFPPB* in 2005. The *guide* explains:

- the purpose of the Act
- the role of the Board
- the concept of "normal farm practice"
- Board procedures
- the hearing process.

OMAFRA has also published three brochures to give residents and farmers a brief overview of the Act and the Board.

- [So you're moving to the Country](#) - tells new residents what to expect when moving into agricultural areas.
- [Are you preparing for a Normal Farm Practices Protection Board hearing](#) - presents factors to be

considered in preparing for a hearing.

- [The Hearing Procedure - Normal Farm Practices Protection Board](#) - gives a brief overview of the hearing process.

In addition to the Citizen's Guide, the Board has also published its [Rules of Practice and Procedure](#). Parties refer to this document to help them prepare for Board hearings. The Citizen's Guide, Rules of Practice and other information on the Act and the Board are available [online](#). People can also obtain copies from the Agricultural Information Contact Centre at 1-877-424-1300.

All the documents described above were updated during the fiscal year 2009-2010.

Summaries of all NFPPB decisions can be found on the NFPPB [website](#). Full decisions are available electronically or in hard copy by contacting the Agricultural Information Contact Centre at 1-877-424-1300 or ag.info.omafra@ontario.ca.

Board Activities - Governance

In accordance with the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, the Board has published online five Accountability Documents: Mandate and Mission Statement; Consultation Policy; Service Standard Policy; Ethics Plan; and Member Accountability Framework. The Member Accountability Framework includes a Code of Conduct. Appendix C and D presents these documents.

The Board also complies with other governance requirements of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, and applicable directives of Management Board of Cabinet. These include risk identification, assessment and mitigation strategies and reports, and the Board's Memorandum of Understanding (MOU) which addresses its relationship with the Minister of Agriculture and Food. The Board also complies with the *Ontarians with Disabilities Act, 2001*, the Communications in French Directive, and the Travel, Meal and Hospitality Expenses Directive.

Operational Performance

Performance Measures

The Board measures the performance of its programs in three areas:

- a. The performance of the conflict resolution system in reducing the number of NFPPB cases that arise from complaints about farm practices. If the conflict resolution system was not in effect, all complaints about normal farm practices would become NFPPB cases.
- b. Board response to applications for hearing: Number of days between receipt of a complete hearing application and response to the applicant on whether the application is accepted for hearing. If the Board considers rejecting the application, it would notify the applicant within the specified response time that the application is undergoing further review, and inform the applicant of this review process. The applicant will be able to address the Board's concerns before a decision is made. Hearing application forms are accessible on the Board website at:
<http://www.omafra.gov.on.ca/english/engineer/nfppb/nfppb.htm>.
- c. Issue of Board decisions following full hearings: Number of days between completion of the hearing and release of the decision. This is a measure of the length of time the parties have to wait for the Board's decision after the full hearing has ended.

Values/Operating Principles

Values of the Normal Farm Practices Protection Board:

1. Respect and consideration for participants.
2. Quality of hearing process information provided to participants.
3. Fairness in the processing of applications.
4. Consideration of participants in the selection of the hearing date.
5. Convenience to participants of the hearing location.

6. Appropriateness of the hearing room set-up.
7. Fairness in the conduction of the hearing.
8. Adequate opportunity for participants to present evidence.
9. Adequate opportunity for participants to respond to the evidence of the opposing party.
10. Satisfaction that the decision reflected the evidence presented at the hearing.
11. Clarity of the reasons why the Board reached its particular decision, as presented in the written Decision.
12. Timing of the release of the decision.
13. The plain language used in the decision.
14. Absence of bias.

Because of the small number and the nature of hearings, the Board does not ask hearing participants to rate its performance on these issues. The Board relies on the incidence of complaints to assess its performance in these areas.

Performance Results

Following are the results of the Board's performance measures:

a) The performance of the conflict resolution system in reducing the number of NFPPB cases that arise from complaints about farm practices. The goal is that a minimum of 80 percent of complaints should be resolved by the conflict resolution system;

Results: In 2013-2014, there was a total of 156 farm practice complaints received.

Of these, 153 were resolved by the Conflict Resolution Process required by the Board, so that only three became new Board cases;

Performance Result: 98 percent.

b) Board response regarding acceptance or rejection of application for hearing: On receipt of a complete application for a hearing, the Board will issue, within 20 days, a notice regarding acceptance or further evaluation.

Results: Three new cases were received for hearing in fiscal year 2013-2014. The results are shown in the Table 3 below.

Table 3. Responses to Applications for Hearing

Case #	Case Name	No. of days to respond to applicant	Response	Comments
2013-01	Boon v. County of Central Huron	22	Accepted for hearing	The response time did not meet the standard 20 days because of complex legal issues
2013-03	Sproul v. County of Huron	1	Accepted for hearing	This case was similar to another case before the Board
2013-04	Yake v. Town of Uxbridge	N/A	(Application on Hold)	The applicant put the application on hold

Response time did not meet the standard in one case because of complex legal issues.

c) Release of Board Decisions: Following completion of a hearing, the Board endeavors to release its written Decision, with reasons, to the parties according to the following schedule:

- Hearing lasting less than 5 days: Decision released within 60 business days
- Hearing lasting 5 to 20 days: Decision released within 90 business days
- Hearing lasting more than 20 days: Decision released within 120 business days.

Results: The Board did not complete any full hearings in fiscal year 2013-2014, so it did not issue any

decisions.

Financial Performance

Financial Budget

The Board is funded by the ministry under a Memorandum of Agreement (MOU) signed by the Minister of Agriculture and Food and the Chair of the Board. The MOU sets out the relationship between the Board and the ministry, to enable the Board to operate "at arm's length" from the ministry. The "arm's length" relationship is vital to ensure that neither the ministry nor the Minister has any influence on the decisions of the Board regarding cases that come before it.

The Board does not have a separate funding allocation, though a specific cost centre was assigned in October 2011. Board expenditures are covered by the Innovation, Engineering and Program Delivery (IEPD) Unit of OMAF and MRA's Environmental Management Branch. The Unit provides staff, office facilities and supplies, and covers Board operating expenses. Board expenditures are the responsibility of the Chair.

Total operating expenditures for the 2013-2014 fiscal year was \$23,171 (compared to \$31,290 in 2012-13) (refer to Table 4). This amounted to 39.3 percent of the budgeted amount of \$59,000. The following factors contributed to the lower spending: (a) no full hearings were completed, though there were two motion hearings and four pre-hearing conferences (three of them by teleconference); (b) training costs budgeted for a new Vice-Chair were not used because the out-going Vice-Chair was reappointed; and (c) publication of the Board's Citizen's Guide was deferred to 2014-15.

Table 4. NFPPB Expenditures 2013-2014

	2012-2013	2013-2014	Budget	Variances	Explanation of Variances
Board Member Per Diems	\$ 26,274	\$18,063	\$40,000.00	\$(21,937)	No full hearings, 2 motion hearings held this fiscal year.
Travel Expenses	\$ 2,572	\$1,378	\$7,500	\$(6,122)	No full hearings, 2 motion hearings held this fiscal year.
Training	\$0	\$0.00	\$4,500.00	\$(4,500)	Training deferred to 2014-2015.
Translation Services (Decision Summaries)	\$ 477	\$29	\$1,500	\$(1,471)	Translation of Complaints Procedure
Publication ("Citizen's Guide")	\$0	\$0.00	\$2,000	\$(2,000)	Citizen's Guide publication deferred to 2014-15
Court Reporters	\$ 964	\$2,652	\$2,500	\$ 152	No full hearings, 2 motion hearings held this fiscal year.
Miscellaneous	\$ 1,003	\$1,049	\$1,000.00	\$49	Police protection services needed for hearings and Board-ordered events in one particular case.
Total	\$ 31,290	\$ 23,171	\$59,000	\$ (35,829)	

Board Appointees

Under the Act, the Board consists of at least five members appointed by the Minister of Agriculture and Food, through the Public Appointments Secretariat, according to the requirements of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*. The Board invites candidates from across the province, with various backgrounds and expertise in agriculture and municipal affairs.

During the 2013-2014 fiscal year there were nine members on the Board. During the past fiscal year five members were reappointed, including the Chair and Vice-Chair. Here is the membership list as of March 31, 2014 (Table 6):

Table 6. Board Members 2013-2014

Name	Address	Occupation	Original Appointment	Appointment Expiry Date
Kirk W. Walstedt, Chair	Maidstone	lawyer	June 1, 2013	June 30, 2017
Anthony Little, Vice-Chair	London	lawyer	Apr 6, 2005	Apr 14, 2013

Dwayne Acres	Osgoode	cash crop and livestock farmer	June 3, 2005	July 15 2015
Hélène Blanchard	Embrun	dairy farmer	June 3, 2005	July 15 2015
Marty Byl	Niagara-on-the-Lake	grape grower	July 17, 2007	July 16, 2016
Douglas Eadie	Kincardine	cash crop farmer	Apr 15, 2011	Apr 14, 2019
Tom Field	Glencoe	dairy, beef, sheep, cash crop farmer	Feb 27, 2009	Feb 26, 2019
Roger Pelissero	St Anns	poultry farmer	July 17, 2007	July 16, 2016
P. Maxwell Kaiser	Napanee	poultry farmer	July 17, 2007	July 16, 2016

Acknowledgement

On behalf of the members of the Normal Farm Practices Protection Board, I wish to thank the Minister of Agriculture and Food for the services provided to the Board according to the Memorandum of Understanding, and for facilitating the smooth and effective operation of the Board.

Submitted this 21st day of June, 2014.

Kirk W. Walstedt, Chair (signed)

Normal Farm Practices Protection Board

Appendix A: Distribution of Types of Complaints by County

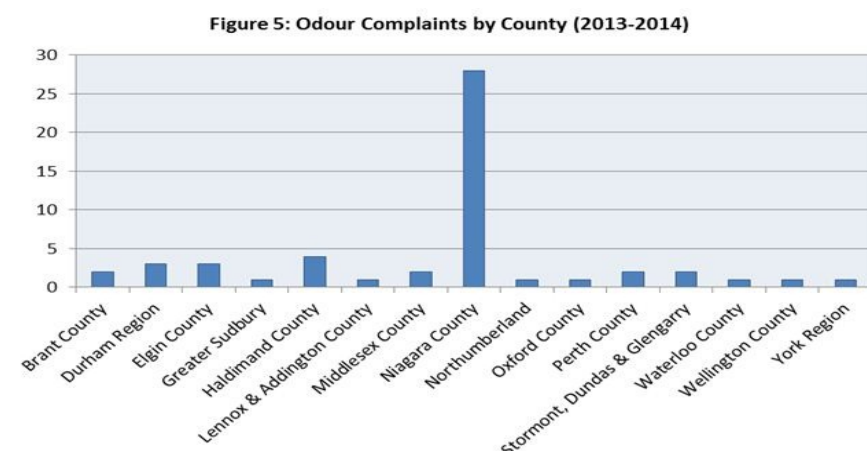


Figure 5. Odour Complaints by County (2013-2014)

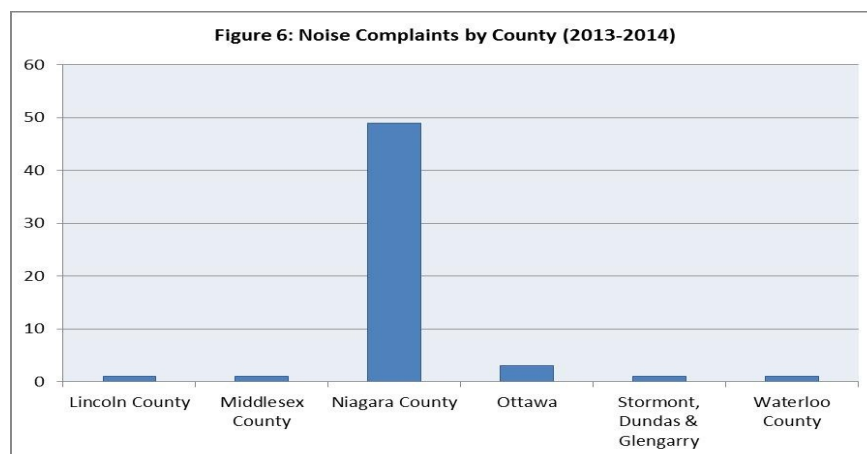


Figure 6. Noise Complaints by County (2013-2014)

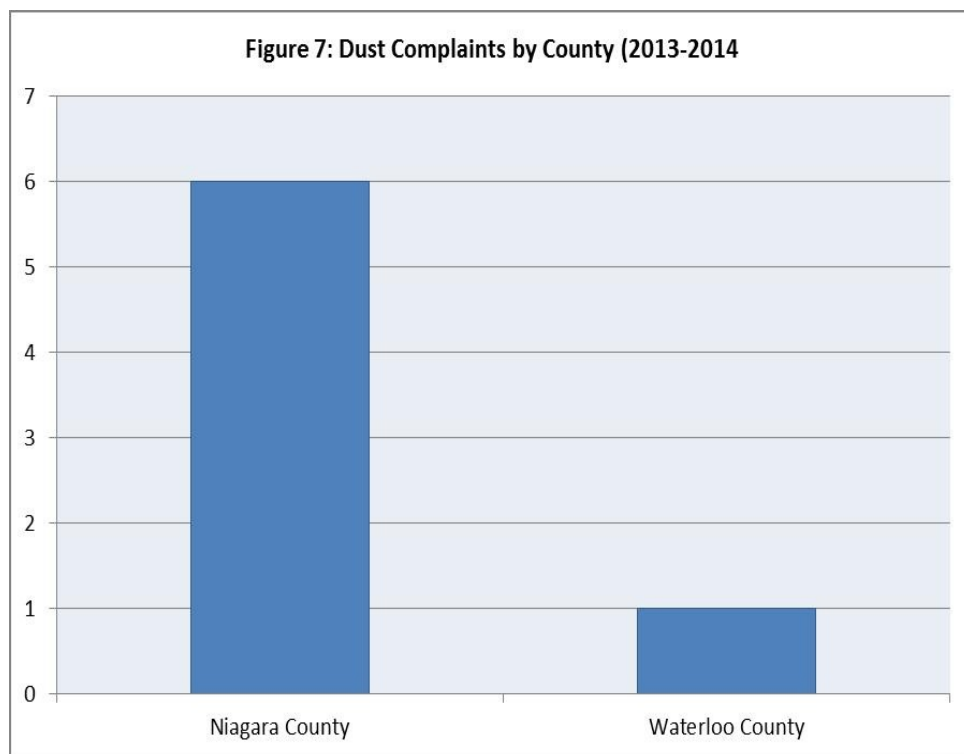


Figure 7. Dust Complaints by County (2013-2014)

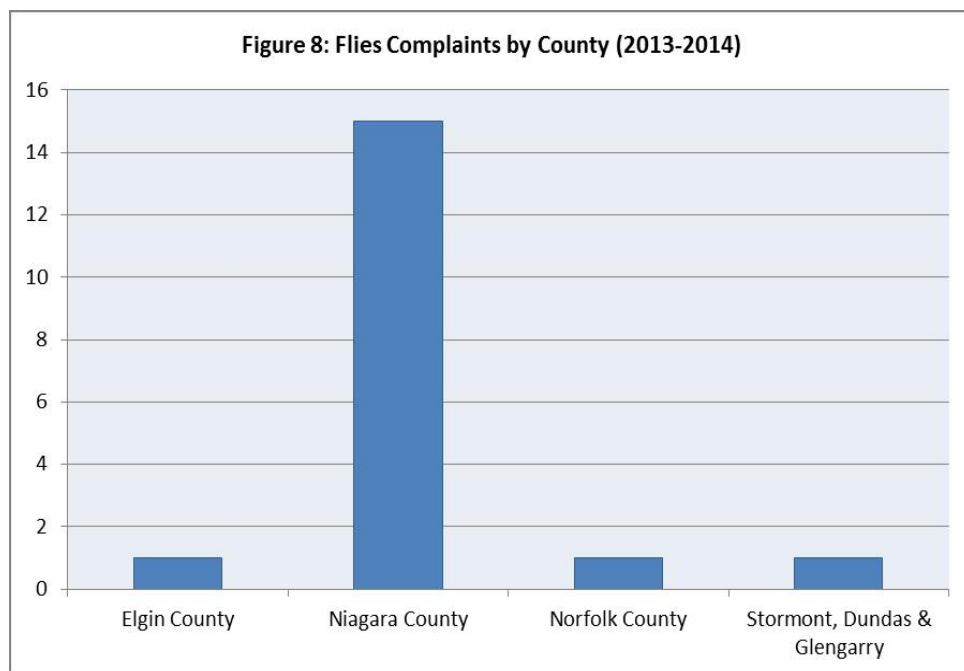


Figure 8. Flies Complaints by County (2013-2014)

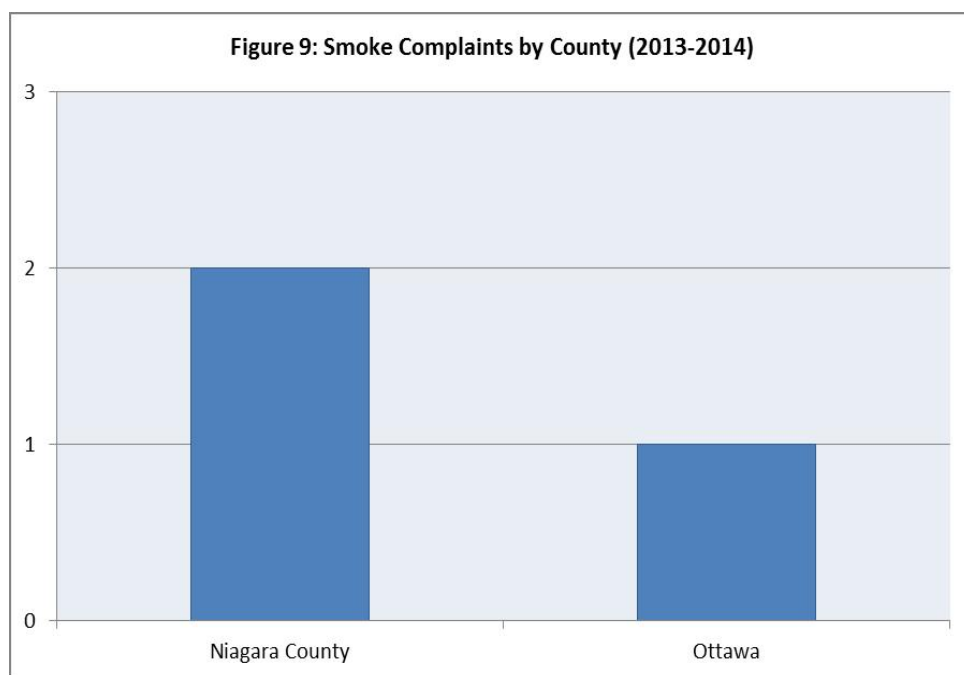


Figure 9. Smoke Complaints by County (2013-2014)

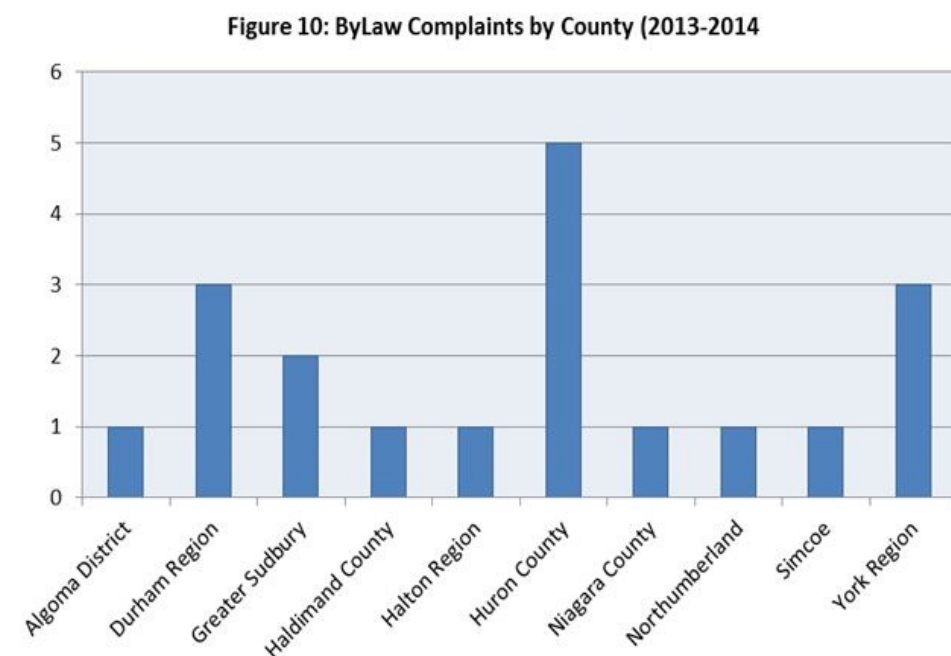


Figure 10. By-Law Complaints by County (2013-2014)

Appendix B: Disposition of NFPPB Cases - 1998-2014

[Table 7](#) shows the disposition of all cases brought to the Board (after conflict resolution by the Agricultural and Food Engineers and Environmental Specialists) since the Act was amended in 1998.

"Primary" complaints refer to cases where the nuisance mentioned is the only or major cause of the complaint. Many cases include complaints about multiple nuisances. For example, a complaint about noise from tractors working at night may also name light and vibration; a complaint about odour from a manure pile may include flies. When the case involves multiple nuisances, the main nuisance is identified as a Primary Complaint; the others as Secondary Complaints.

Table 7 Key:

- UPPER CASE: Primary complaint
- Lower case: Secondary complaint

- F: Decision in favour of farmer
- X: Decision against farmer
- A: Agreement between parties
- W: Withdrawn
- (P): Pending (continued in new fiscal year; **not counted in cumulative totals**)
- C: Closed - no action by applicant
- L: Litigation
- D: Referred to another jurisdiction

Table 7. NFPPB Case Disposition, 1998 - 2014

Year	Odour	Noise	Dust	Flies	Smoke	Light	Vibration	By-Law	Total Completed
2013-14		(P) A						(P)(P)(P) W	2
2012-13	W	(P) D						(P) W, D	4
2011-12	A	A,A	a	A,a					4
2010-11	a, A, F	F,X,A, f	f,a	a, a, f			a	A, A	7
2009-10	A,(P),(P)	X,p		(p),(p)				A,(P)	3
2008-09	(P),a	A,A,(P)	F,a						3
2007-08	X,x,A	X,F	(P)	x		x	x	F	5
2006-07	X,p,(P)	F,X,W,A			C	x	x	X,(P)	6
2005-06	W,(P)	W,A	C,A	w				(P)	5
2004-05	X,F, X,(P)	f						X,(P)	4
2003-04	X,F,(P)	W,X	A,w			w		X,X, X,X, (P)	9
2002-03	(P)	F,W	w			f,w	f	F,W, X,(P)	5
2001-02	F,F, C,X,(P)	X,X		f				X,X	8
2000-01	C,W,C,D,(P)	W,F						F,X, A,W, W,C, X,L	14
1999-00	F								1
1998-99	X	F						F	3
Total	23	25	4	1	1	0	0	24	78

Appendix C: NFPPB Governance Documents

We present the five Accountability Documents, as required by the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*: the Mandate and Mission Statement; Consultation Policy; Service Standard Policy; Ethics Plan; and Member Accountability Framework. The Member Accountability Framework includes a Code of Conduct.

Mandate and Mission Statement

- a. The mandate of the Normal Farm Practices Protection Board (Board) is established by the Farming and Food Production Protection Act, 1998, S.O. 1998, c.1. Section 3 establishes the Board and provides for the Minister of Agriculture, Food and Rural Affairs (OMAFRA) to appoint the Chair, Vice-Chair and members. Subsection 4(2) states that the Board has the power to:
 1. inquire into and to resolve disputes respecting agricultural operations and to determine what constitutes a normal farm practice;
 2. make necessary inquiries and orders to ensure compliance with its decisions.
- b. The Board's mission statement is to provide a fair hearing and decision process to all parties involved in disputes regarding normal farm practices.
- c. The operation of the Board is subject to the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, the Judicial Review Procedure Act, R.S.O. 1990, c. J.1, the MBC Agency Establishment and Accountability Directive and Government Appointees Directive, and other applicable Directives of Management Board of Cabinet and Treasury Board of Cabinet.

Consultation Policy

When considering substantive changes to its rules or policies, the Normal Farm Practices Protection Board (Board) will consult with persons or entities or groups of persons or entities (parties) whose interests would be affected by those changes, where, in the opinion of the Board Chair, it would be appropriate to do so.

When consulting with persons or entities or groups of persons or entities on such matters, the Board will do so in a manner that allows the Board to receive feedback from those engaged before changes are finalized.

Consultation periods will vary according to the complexity of the matters under discussion and the range of parties involved. The minimum consultation period will be 30 days, beginning the date the matter is communicated to the parties.

Service Standard Policy

The Normal Farm Practices Protection Board (Board) is a quasi-judicial adjudicative board committed to providing a fair hearing and decision process to all parties involved in disputes regarding normal farm practices. The Board operates within the context of a professional and accountable public service, and is committed to providing a high standard of service to the public.

From time to time, the Board may receive complaints about the quality of service related to its practices, or the conduct of Board members or staff. This policy outlines the Board's service standards for communication between the Board and the public, and informs the public about the Board's process for responding to complaints.

Service Standards

Correspondence - Written correspondence (mail, e-mail or fax) will be acknowledged within 15 business days.

Telephone - Telephone calls will be returned within one business day. Voicemail messages will provide an option for reaching an alternate staff person to assist.

In-person service - Core hours for staff assisted service is 8:30 am to 5:00 pm.

Applications for hearings - Applicants will be informed whether their application for a hearing has been accepted by the Board within 20 days, beginning with the receipt of a complete application that meets Board requirements. To assist the applicant, the Board has provided full application forms showing all the required information on the [Board web page](#).

Issue of Board decisions - Following completion of a hearing, the Board will issue its written Decision with reasons to the parties according to the following schedule:

- Hearing lasting less than 5 days Decision issued within 60 business days
- Hearing lasting 5 to 20 days Decision issued within 90 business days
- Hearing lasting more than 20 days Decision issued within 120 business days

Accessibility

The Accessibility Document of the Normal Farm Practices Protection Board is published on the Board [website](#).

Public Complaints Policy

The Normal Farm Practices Protection Board (NFPPB) is committed to providing quality service to the public.

- The Board is open and honest in its behaviour, responsive to change, and committed to continuous self-improvement and integrity.
- The Board will make every reasonable effort to resolve an issue in a fair, consistent manner and is committed to effective relationships with the general public, clients and other staff within and across ministries, and with elected officials.

From time to time, the Board may receive complaints about the quality of service related to Board policies and procedures, the application of those policies and procedures or the conduct of the Board members and staff. The purpose of this policy is to create a transparent and fair method of responding to public complaints.

Important Points about the Policy

- Dissatisfaction with the outcome of a decision is not a complaint. Such an issue cannot be resolved by the Board directly. The complaint procedure is not another form of reconsideration, appeal or judicial review. If your complaint would best be resolved through a reconsideration, appeal or judicial review, the Board Secretary will advise you of the appropriate procedure.
- As part of the Board's commitment to service quality, the Board will accept complaints from the public about quality of the Board's service. Persons who can make a complaint include a party to a Hearing; a party's representative, friend or family member; a witness; or any member of the public who has dealt with the Board.
- Where possible, complaints will be addressed immediately. However, some complaints may require more effort to address. The Board Secretary will acknowledge verbal or telephone complaints within two business days, and complaints received by mail, email, fax or diskette within 15 business days.
- If the complaint cannot be resolved immediately, the acknowledgement will indicate when it will be resolved, within a 30-day limit.
- The Board will respond to your complaint and make every reasonable effort to resolve it in a fair and consistent manner.
- This policy does not affect your right to raise your concerns with the Ombudsman of Ontario if you are dissatisfied with the responses provided by the Board.

Board Complaints Procedure

Confidentiality: Complaints are kept strictly confidential. However, for a thorough and fair review, the Board must advise the person who is the subject of the complaint.

Making a Complaint about Agency Policies and Procedures

- Take your complaint to the Board Secretary. If the Secretary cannot resolve it, the Secretary will take it to the Chair. The Secretary's contact information is shown below.

Making a Complaint about the Secretary

- You can raise a complaint about the Secretary directly with the Secretary. If you do not receive a satisfactory response, you can refer the complaint to the Manager, Innovation, Engineering & Program Delivery, Ontario Ministry of Agriculture, Food & Rural Affairs (OMAFRA) (contact information below). You can also bypass the Secretary and take the complaint directly to the Manager.

Making a Complaint about a Board Member (other than the Chair)

- If you have a complaint about the conduct of a Board member while the Hearing is in process, take it to the Board Secretary. Except in unusual circumstances, the Chair may defer the review in order to maintain the integrity and impartiality of the Hearing process. The Chair will provide an initial response within 15 days. The Chair will advise the Board member, conduct a review and fully respond to the complaint as soon as, in the Chair's opinion, it is appropriate to do so.
- If your complaint about the Board member occurs after the Hearing is finished, or if the Board member is not involved in the Hearing, the chair will respond within 15 days.
- The review of the complaint by the Chair will take the form of hearing by written submissions. Your complaint should be fully explained in writing (written submission). Your submission will be issued to the Board member, who will be required to submit a written response within ten working days. Your submission will also be issued to any witnesses identified in your submission, and they too will be required to submit a written statement within ten working days. All responses will be forwarded to you, so that you can, if you wish, respond to them as appropriate. You must submit your response document within ten working days. The Chair will then consider all documents submitted and issue a written decision, with reasons, within 20 working days of receiving all written submissions.

Making a Complaint about the Board Chair

The Minister or Minister's delegate is the most appropriate choice for reviewing complaints against the Board Chair. You can submit the complaint in writing, or in other forms as appropriate for persons with disabilities, either through the Board Secretary or directly to the Minister's office. The review may be conducted by the Minister or his or her delegate.

Contact Names

Normal Farm Practices Protection Board
Ontario Ministry of Agriculture, Food & Rural Affairs
1 Stone Road West, 3rd Floor
Guelph, ON N1G 4Y2

Board Secretary: [Finbar Desir](#) (519) 826-3549

Manager, Innovation, Engineering & Program Delivery Unit: [Colleen Fitzgerald-Hubble](#)

Ombudsman Ontario

125 Queen's Park
Toronto, ON M5S 2C7
General Inquiry Client Access Centre
(416) 586-3300 or 1-800-263-1830

Ethics Plan

A. [Part 1V \(Ethical Conduct\) and Part V \(Political Activity\) of the Public Service of Ontario Act, 2006 \(PSOA\)](#) <http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_06p35_e.htm>

The Board will ensure that members are familiar with the requirements of the PSOA by:

1. Upon appointment, providing each member with a membership binder which includes,
 - a. a copy of the relevant provisions of the PSOA and its regulations, [O.Reg. 381/07](#) <http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_070381_e.htm>
 - b. [Conflict of Interest Commissioner guideline documents](#) <http://www.coicommissioner.gov.on.ca/scripts/en/faq.asp?pf=1,0#faq_coic> pertaining to ethical conduct, including conflict of interest rules and [political activity rights and restrictions](#) <http://www.coicommissioner.gov.on.ca/scripts/en/faq.asp?pf=0,1#faq_pa>, and
 - c. the website link for the [Conflict of Interest Commissioner](#).
2. Having the Chair of the Board review with each new appointee their obligations under the PSOA with respect to ethical conduct, conflict of interest rules and political activity rights, and review the role of

the Chair as the Ethics Executive for appointees to the Board, as soon as is practical.

3. Providing each member with notice of any amendments to the relevant legislative provisions respecting their responsibilities under the PSOA as soon as is practical.
4. Providing an annual notice to members containing information about the requirements of Parts IV and V of the PSOA.

The Board will ensure that members are familiar with the Board's Code of Conduct by:

1. Upon appointment, providing each member with a membership binder which contains the Board's Code of Conduct.
2. Reviewing the Code of Conduct with new appointees during their orientation session, as soon as is practical.
3. Notifying each member of any amendments to the Code of Conduct as soon as practical.
4. Providing a copy of the Code of Conduct to members by March 31 of each year.

Member Accountability Framework

The Board's Member Accountability Framework consists of:

1. Position Description of the Chair, including qualifications
2. Position Description of the Vice-Chair, including qualifications
3. Position Description of the Members, including qualifications
4. The Code of Conduct for the Normal Farm Practices Protection Board (see Appendix E).

Appendix D - Members' Code of Conduct

Purpose of the Code

This Code of Conduct sets out the standards of conduct governing the professional and ethical responsibilities of members of the Normal Farm Practices Protection Board from the beginning of their term of appointment and ongoing obligations as an appointee. It addresses the principles of good conduct and collegial responsibility. Appointees are responsible for applying an appropriate standard of conduct and acting in an ethical and professional manner.

The principles set out in this code are founded on the professional and ethical values of public service, which are set to uphold the public trust.

This Code of Conduct does not refer to appointees' legislated obligations regarding a conflict of interest or political activity rights and obligations. Please refer to the Public Service of Ontario Act, 2006 and its regulations. Also, it is not intended to conflict with any legal or professional requirements.

Principles of Conduct

Compliance with Laws

1. Members shall act in accordance with all applicable laws and should comply with the spirit and intent of the law.
2. Members shall not commit or condone an unethical or illegal act or invoke another to do so.
3. Members should be familiar with legislation, policies and directives that apply to their work and the work of the Board in order to comply with or facilitate others' compliance with applicable laws.

Fairness / Courtesy

4. Members have an obligation to comply with procedural fairness and natural justice requirements and to act impartially in the conduct of proceedings, including in matters of law and Member attitude and demeanour.

5. Members should treat each person with dignity and respect and in a manner that builds trust.

Accessibility

6. Members should treat those who appear before the Board fairly, without discrimination or favouritism.
7. Members should be aware and respectful of social and cultural differences. In the course of their duties, they should act in a manner that promotes an appreciation of diversity.
8. Members must be sensitive to potential barriers to accessibility.
9. Members should conduct hearings or reviews such that those who appear before the Board understand the procedures and practices and can participate equally, whether or not they are represented.

Timeliness

10. Members should take all reasonable steps to ensure that proceedings are concluded in a timely manner, avoiding unnecessary delays and cancellations of proceedings.
11. Parties are entitled to a decision as soon as possible after the proceeding.
12. Members should meet the timeliness standards established by the Board.

Quality and Consistency

13. Members should be fully prepared for a proceeding and ensure that proceedings are orderly.
14. Members should maintain the integrity of the hearing or review process.
15. Members should ensure that decisions are prepared in accordance with the Board's guidelines on form and language, and meet the Board's standards for quality decision-making.
16. Members should recognize the public interest through consistency and predictability in the exercise of their independent decision-making authority by considering relevant facts and evidence as well as law and jurisprudence.

Transparency

17. Members should ensure that proceedings are conducted in a manner that is transparent and seen to be fair.
18. Members should act in a transparent and accountable manner regarding their personal and professional actions, in such a fashion that actions would bear close public scrutiny.

Expertise / Competence

19. Members should commit the time and effort required for the work of the Board.
20. Members should maintain the high level of professional competence and knowledge required to discharge their obligations and duties.
21. Members should remain current in the field by participating in Board discussions and ongoing professional development.
22. Members should contribute their unique skills, experience and knowledge to the Board.

Optimum Cost

23. Where appropriate, members should provide parties with opportunities to resolve issues before them without a formal hearing.
24. Members should ensure that proceedings are streamlined to the best extent possible without sacrificing fairness.
25. Members should respect the use and treatment of public funds.

Integrity

26. Members should act with honesty, integrity and high ethical standards.
27. Members shall not engage in conduct that exploits their position as a member.
28. Members should conduct themselves personally and professionally in a manner consistent with the nature of their responsibilities and the maintenance of public confidence in the administration of justice.

Collegiality

29. Members should foster a collegial working environment and conduct themselves in a manner that reinforces the integrity and professionalism of the Board among appointees and with staff.
30. Members should conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues.
31. Members should share their knowledge and expertise with other appointees as requested and appropriate.
32. Members should not comment publicly on another member's decision or conduct.

Objectivity / Impartiality

33. Members should approach every proceeding and every issue arising in a proceeding with an open mind, and avoid doing or saying anything to cause any person to think otherwise.
34. Members should be independent in decision-making.
35. In the conduct of Board proceedings, members' decisions should be based on an application of the relevant law to the evidence presented in each case.

Confidentiality

36. Members shall consider the privacy interests of individuals in the conduct of hearings and decisions, and act in accordance with applicable laws.
37. Members must not disclose information that the Board considers to be confidential.
38. Members must not take advantage of confidential information obtained through official duties to obtain a personal benefit.
39. Members should follow Board protocols for communicating in the media and should not communicate with the media regarding a decision.

Acknowledgement

40. Each member must adhere to this Code of Conduct and commit to supporting the standards set out in applicable legislation, policies or guidelines.
 41. Members should review and reaffirm their commitment to and compliance with the Board's Code of Conduct upon initial appointment and on a regular basis thereafter.
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For more information:

Toll Free: 1-877-424-1300

E-mail: ag.info.omafra@ontario.ca