

## Annual Report of the Normal Farm Practices Protection Board April 1, 2014 to March 31, 2015

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### Executive Summary

This report presents the activities and performance of the Normal Farm Practices Protection Board for the fiscal year April 1, 2014 to March 31, 2015.

The Normal Farm Practices Protection Board (the Board) is established under the Farming and Food Production Protection Act, 1998 (the Act) to hear and rule on issues pertaining to farm practices.

The Act provides that farmers are not liable in nuisance for any disturbance arising from an agricultural operation that is carried on as a normal farm practice. Nuisances covered are those arising from odour, dust, flies, light, smoke, noise and vibration. The Act also exempts farmers from municipal by-laws which restrict their normal farm practices.

In accordance with the Preamble of the Act, the Board seeks to balance the needs of the agricultural community with provincial health, safety and environmental concerns. Board hearings are less formal than the courts. Hearings are managed in such a way that any complainant or respondent may present their case with or without legal counsel. This ensures that all citizens have access to the services of the Board.

During this period, the Ministry of Agriculture, Food and Rural Affairs (OMAFRA) received 131 nuisance and bylaw complaints about farm practices. Ministry agricultural and food engineers and environmental specialists resolved the majority of these complaints through the compulsory conflict resolution process with the parties. Four unresolved cases were brought to the Board for hearings; the Board resolved one of these through a settlement conference, which is also a part of the Board's pre-hearing process.

The Board convened seven hearings, of which four were new, and three continuing from previous years. Of these seven hearings, two were completed, one was resolved at a settlement conference, one was adjourned indefinitely, one was closed, and two were in progress at the end of the fiscal year. The annual report also details Board activities regarding assistance to clients, governance and meetings.

The Board successfully achieved **performance standards** for service and delivery in terms of minimizing the length of time to inform clients when the Board would set down their application for a hearing, and the length of time to issue Board decisions after completion of hearings.

The annual report also details Board activities regarding assistance to clients, governance, meetings and board expenditures. Total operating expenditures for the 2014-2015 fiscal year was \$59, 607. This amount was 28 percent higher than the budget of \$46,700, for reasons explained in the section on Financial Performance.

## **Introduction**

The Normal Farm Practices Protection Board ("the Board") is established under the Farming and Food Production Protection Act, 1998 (the Act) to rule on issues pertaining to farm practices. The Act protects farmers from nuisance complaints, provided the farmer is following normal farm practices. Nuisances covered are those arising from odour, dust, flies, light, smoke, noise and vibration. The Act also protects farmers from municipal by-laws that restrict their normal farm practices.

The Act defines "normal farm practice" as a 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.

OMAFRA agricultural engineers or environmental specialists conduct conflict resolution on each complaint. The conflict resolution process successfully resolves over 95 percent of all complaints. Secondly, for unresolved cases, the Board may conduct a pre-hearing/settlement conference with the parties. The pre-hearing conference identifies issues and determines hearing logistics, and the settlement conference attempts further mediation. If the settlement conference is unsuccessful, the Board conducts a hearing to determine whether the farm practice involved is a "normal farm practice."

After a hearing, the Board shall,

- a. dismiss the application if the Board is of the opinion that the disturbance results from a normal farm practice;
- b. order the farmer to cease the practice causing the disturbance if it is not a normal farm practice; or
- c. order the farmer to modify the practice in the manner set out in the order so as to be consistent with 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 "not normal", the farmer would have to cease from the practice or adhere to the by-law. The Board may also rule that the practice would be normal if specified modifications are made.

## **Complaints about Farm Practices**

OMAFRA received 131 complaints regarding farm practices in 2014-2015. The numbers of complaints received annually for the last five years are shown in Table 1. The table also shows the distribution of these complaints by nuisance type for each year. The total number of complaints have decreased substantially (by 46 percent) over the last three years, from 206 complaints in 2011-12 to 131 complaints in 2014-15.

The distribution of complaints shown in Table 1 is illustrated in a bar graph in Figure 1. This graph shows that odour and noise, followed by flies, have been the major causes of nuisance complaints over the past five years. This is illustrated more clearly in the pie chart in Figure 3, which presents the distribution of complaints for the year 2014-2015.

Line graphs in Figure 2 illustrate significant decreases in complaints for all nuisances types (odour, noise, dust, flies, smoke, light; (no vibration complaints received) over the past three years. The opposite, however, has occurred with municipal by-law cases. Complaints have arisen from farmers regarding three distinct types of municipal by-laws: site alteration, outdoor burning and tree-cutting. Site alteration by-laws seek to limit the quantities of soil that can be imported onto farms in a municipality and set conditions for importing soil. Burn by-laws govern the size and composition of piles that may be burnt and set conditions for their burning. Tree-cutting by-laws limit the number of trees that can be cut in the municipality. In instances where farmers consider these by-laws to be too restrictive, they have applied to the Board for a ruling exempting their farm

practices from the by-laws.

Table 2 show the distribution of complaints by County. The distribution of complaints is also available by county for the fiscal year 2014-15. Charts show the distribution of odour, noise, flies, and by-law complaints by county in Figures 4 to 8 in Appendix A. The charts reveal that, except for dust, Niagara Region has a concentration of complaints in every category that is greater than any other county. This is due in part to the high population density in an agricultural area that is very productive in grapes, fruits and other high-value agricultural products. The primary type of complaint in Niagara is noise. Over 80 percent of all noise complaints in 2014-15 came from Niagara. These were related primarily to the use of bird cannons (bird bangers), noise-makers designed to protect grape harvests from birds.

The operations of the Normal Farm Practices Protection Board are governed by the Act and its own Rules of Practice and Procedure. The Rules require that complaints about farm practices go through the conflict resolution process conducted by OMAFRA agricultural engineers and environmental specialists before scheduling a hearing by the Board. Through this process, 127 of the 131 nuisance and by-law complaints received in 2014-15 were resolved. That represents a 97 percent success rate. The remaining 3 percent (four cases) went on to the Board for processing.

**Table 1.** Farm Practice Complaints Received by OMAFRA

|           | <b>Odour</b> | <b>Noise</b> | <b>Dust</b> | <b>Flies</b> | <b>Smoke</b> | <b>Light</b> | <b>Vibration</b> | <b>By-Law</b> | <b>Total</b> |
|-----------|--------------|--------------|-------------|--------------|--------------|--------------|------------------|---------------|--------------|
| 2013-2014 | 53           | 56           | 7           | 18           | 3            | 0            | 0                | 19            | 156          |
|           | 34%          | 36%          | 4%          | 12%          | 2%           | 0%           | 0%               | 12%           | 100%         |
| 2014-2015 | 48           | 45           | 2           | 20           | 1            | 0            | 0                | 15            | 131          |
|           | 37%          | 34%          | 2%          | 15%          | 1%           | 0%           | 0%               | 11%           | 100%         |
| 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%         |

**Table 2.** Distribution of Complaints by County (2014-2015)

| <b>County</b> | <b>Odour</b> | <b>Noise</b> | <b>Dust</b> | <b>Flies</b> | <b>Smoke</b> | <b>By-Law</b> | <b>County Totals</b> | <b>County %</b> |
|---------------|--------------|--------------|-------------|--------------|--------------|---------------|----------------------|-----------------|
| Brant County  | 9            |              |             |              |              |               | 9                    | 7%              |
| Bruce         | 1            |              |             |              |              |               | 1                    | 1%              |
| Dufferin      |              |              |             |              |              | 2             | 2                    | 2%              |
| Durham        | 2            | 1            |             |              | 1            | 2             | 6                    | 5%              |
| Elgin         |              | 3            |             | 1            |              | 1             | 5                    | 4%              |
| Essex         | 1            | 2            |             |              |              | 1             | 3                    | 2%              |
| Grey          |              |              |             | 1            |              |               | 1                    | 1%              |
| Haldimand     | 2            |              |             |              |              |               | 2                    | 2%              |
| Halton        | 5            |              |             |              |              |               | 5                    | 4%              |

|                    |           |           |          |           |          |           |            |             |
|--------------------|-----------|-----------|----------|-----------|----------|-----------|------------|-------------|
| Hastings           | 2         | 1         |          |           |          |           | 3          | 2%          |
| Huron              | 4         |           |          |           |          |           | 4          | 3%          |
| Kent               | 2         |           |          |           |          |           | 2          | 2%          |
| Leeds & Grenville  |           |           |          |           |          | 1         | 1          | 1%          |
| Lennex & Addington | 1         |           |          |           |          |           | 1          | 1%          |
| Middlesex          | 2         |           |          | 1         |          | 1         | 4          | 3%          |
| Niagara            | 10        | 36        |          | 13        |          | 4         | 63         | 48%         |
| Northumberland     | 1         |           |          |           |          |           | 1          | 1%          |
| Oxford             | 2         |           | 1        | 4         |          |           | 7          | 5%          |
| Perth              | 1         |           |          |           |          |           |            | 1%          |
| Peterborough       |           | 1         | 1        |           |          |           | 2          | 2%          |
| Prescott & Russel  | 1         |           |          |           |          |           | 1          | 1%          |
| Simcoe             |           |           |          |           |          | 3         | 3          | <b>2%</b>   |
| Victoria           | 1         |           |          |           |          |           | 1          | 1%          |
| Waterloo           | 1         | 1         |          |           |          |           | 2          | 2%          |
| York               |           |           |          |           |          | 1         | 1          | 1%          |
| <b>Total</b>       | <b>48</b> | <b>45</b> | <b>2</b> | <b>20</b> | <b>1</b> | <b>15</b> | <b>131</b> | <b>100%</b> |

Figure 1. Farm Practice Complaints Received by Complaint Type (2010-2015)

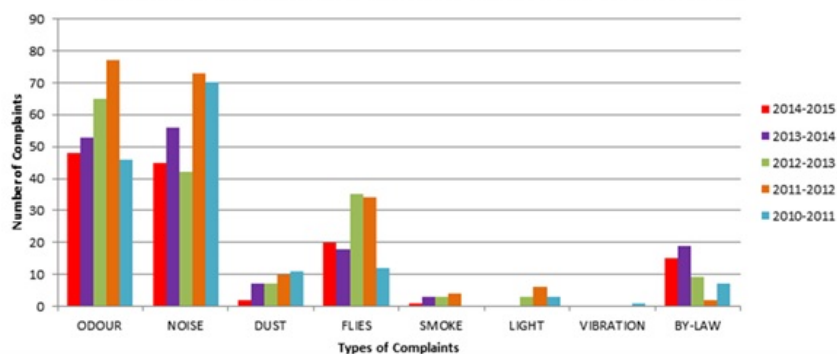
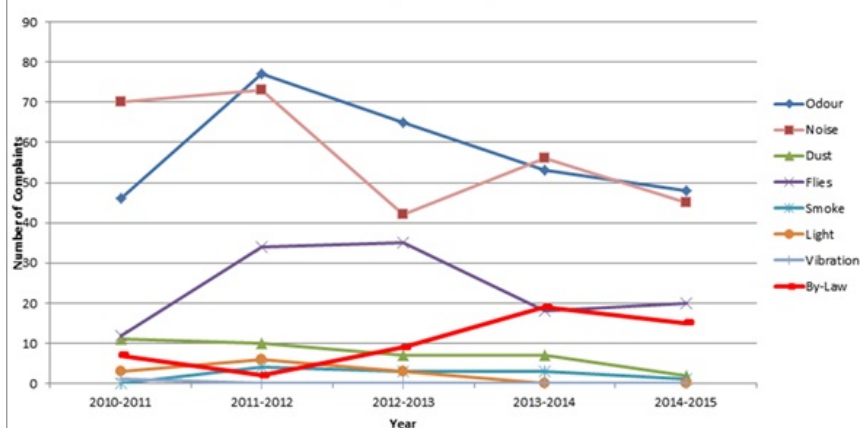
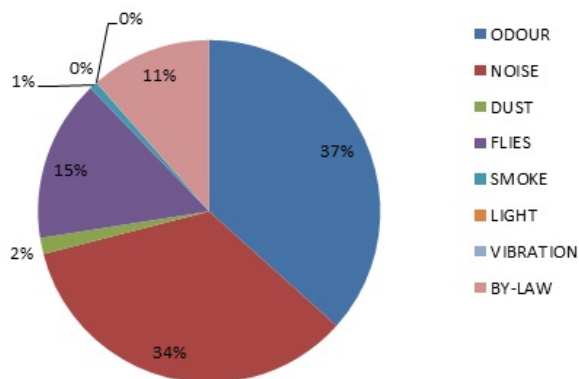


Figure 2. Farm Practice Complaints Received by Year (2010-2015)



**Figure 3: Percentage of NFPPB Complaints  
(2014-2015)**



## Board Activities

The Board convened seven hearings during the fiscal year 2014-2015. Four of these were new cases that came to the Board following the compulsory conflict resolution process, while three continued from previous years. At the end of the fiscal year, two of the seven cases were still in progress, four had been concluded and one was adjourned indefinitely. The cases are described below.

In addition to the conflict resolution process mandated by the Board and conducted by the ministry, the Board conducts settlement conferences on new hearings. This is a second-stage mediation conducted by the Board itself, as part of the pre-hearing process, to further reduce the incidence of hearings. This year, settlement conference resolved one of the four new hearings (2014-04).

- 2011-04 Bannon v. Mastronardi
- 2012-05 Macpherson v. County of Huron
- 2013-03 Sproul v. County of Huron
- 2014-01 Zirger et al v. Vandermeer Greenhouses Ltd
- 2014-02 Stull v. Town of Halton Hills
- 2014-04 Bidochka v. Henry of Pelham Winery
- 2014-05 Cox v. Town of Mono

### 2011-04 Bannon v. Mastronardi

**Issue:** Noise

In 2012, a senior resident/citizen applied for a hearing on the grounds that a farmer's bird banger was threatening her health. The parties purportedly 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 proceeded within the Board's hearing process.

In 2014, the resident's son took over the case on behalf of his mother, as her agent. The complaint was discontinued because the complainant claimed that the Board lacked the ability to make significant changes to the practice of using bird bangers in their area.

**Status:** Case Closed.

### 2012-05 Macpherson v. County of Huron

**Issue:** By-law - Tree- cutting

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 heard two motions. A hearing date will be set after resolution of the motions.

**Status:** Case In Progress.

### 2013-03 Sproul v. County of Huron

**Issue:** By-law - Tree- cutting

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 a full hearing. The Board ruled in favour of the municipality on the grounds that the area where the trees were cut was not zoned "agricultural".

**Status: Decision in Favour of Municipality.**

### **2014-01 Zirger et al v. Vandermeer Greenhouses Ltd**

**Issue:** Odour

A group of residents applied to the Board for relief against odour from operation of an anaerobic digester in their neighbourhood. The farm operating the digester is in receivership. The Receivers pointed out that, by Court Order, a hearing could not proceed without leave of the Court. The Board put the application on hold until the residents could obtain leave of the Court to have the Board proceed.

**Status: On Hold.**

### **2014-02 Stull v. Town of Halton Hills**

**Issue:** By-law - site alteration

The applicants, who are farmers, applied to the Board for relief from a municipal site alteration by-law. The applicants said that they were attempting to rehabilitate a former gravel pit to restore it to agricultural production, but that the municipality was imposing onerous conditions, restricting their normal farm practice. The Board ruled that the rehabilitation work undertaken by the farmers is a normal farm practice, but that the conditions imposed by the municipality were not restricting that normal farm practice.

**Status: Decision in Favour of Municipality.**

### **2014-04 Bidochka v Henry of Pelham Winery**

**Issue:** Noise

A resident complained about noise from bird bangers used to protect grape crops. The winery said that it was following best management practices published by OMAFRA in the operation of its bird bangers. The two parties reached an agreement through the Board's Settlement Conference process.

**Status: Resolved by Settlement Conference; Application withdrawn.**

### **2014-05 Cox v Town of Mono**

**Issue:** By-law - site alteration

A farmer complained that a municipal site alteration by-law was restricting what he considered to be his normal farm practice of bringing soil onto his farm to improve his agricultural operation. The municipality and local residents questioned the large quantity and the quality of the soil he intended to bring. The case is in pre-hearing phase.

**Status: In progress**

### **Assistance to Clients**

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.

Summaries of all NFPPB decisions can be found on the [NFPPB website](#). Copies of full Board decisions are available electronically and in print from the [Agricultural Information Contact Centre](#) and from Board offices at 519-826-4049 and from [CanLII. <http://www.canlii.org/en/on/laws/>](http://www.canlii.org/en/on/laws/)

## **Board Governance**

Board members have been informed of the new Agency and Appointments Directive (AAD) and its requirements. In accordance with the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009 (ATAGAA), the Board has published online its governance documents: memorandum of understanding, business plan and latest annual report approved by the Legislature. The Board's five Accountability Documents are also published on line: Mandate and Mission Statement; Consultation Policy; Service Standard Policy; Ethics Plan; and Member Accountability Framework. (These documents are described below.) The Member Accountability Framework includes position descriptions for the Chair, Vice-Chair and members, and a Code of Conduct.

## **Mandate and Mission Statement**

- 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.
- The Board's mission statement is to provide a fair hearing and decision process to all parties involved in disputes regarding normal farm practices.
- The operation of the Board is subject to the Farming and Food Production Protection Act, 1998, Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, the MBC Agency Establishment and Accountability Direction 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 will consult with persons or entities or groups of persons or entities (parties) whose interests may 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 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.

The full policy is attached in Appendix B.

### **Ethics Plan**

The Board will ensure that members are familiar with the requirements of the Public Service of Ontario Act (PSOA) by:

1. Upon appointment, providing each member with a membership binder which includes,
  - a. The Board will ensure that members are familiar with the requirements of the Public Service of Ontario Act (PSOA) by:
  - b. Conflict of Interest Commissioner guideline documents pertaining to ethical conduct, including [conflict of interest rules](#) [http://www.coicommissioner.gov.on.ca/scripts/en/faq.asp?pf=1,0#faq\\_coic](http://www.coicommissioner.gov.on.ca/scripts/en/faq.asp?pf=1,0#faq_coic) and [political activity rights and restrictions](#) [http://www.coicommissioner.gov.on.ca/scripts/en/faq.asp?pf=0,1#faq\\_pa](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.

### **Code of Conduct**

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.

### **Membership Accountability Framework**

The Board's Member Accountability Framework consists of:

- Position Description of the Chair, including qualifications
- Position Description of the Vice-Chair, including qualifications
- Position Description of the Members, including qualifications
- The Code of Conduct for the Normal Farm Practices Protection Board.

The Code of Conduct is attached in Appendix C.

The Board also complies with other governance requirements of the ATAGAA 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, Food and Rural Affairs. 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 four areas:

- a. The performance of the conflict resolution system in reducing the number of Board cases that arise from complaints about farm practices. If the conflict resolution system were not in effect, all complaints about normal farm practices would become NFPPB hearings.
- b. Speed of response regarding Acceptance or Rejection of Application for hearing: Number of days between receipt of a hearing application and response to applicant on whether the application is set for a hearing. This is a measure of the length of time a person who applies for a hearing has to wait before they know when the Board will hear their case. The measure begins when the Board receives a complete application; it does not include time taken for the applicant to provide missing information. To assist the applicant, the Board has provided full application forms showing all the required information on the NFPPB website linked to the [OMAFRA website](#).
- c. Speed of Issue of Board decisions: 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 hearing has ended.
- d. Quality of Service: The Board is committed to the following values and operating principles:
  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 and completeness of the reasons why the Board reached its decision, as presented in the written decision;
  12. Timing of the release of the decision;
  13. The plain language used in the decision; and
  14. Absence of bias.

Because of the small number of hearings (only two in 2014-2015), the Board does not ask hearing participants to rate its performance on these issues. The numbers are too small to allow anonymity and protect privacy in responses. 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. **Conflict Resolution System:** 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 2014-2015 there were a total of 131 farm practice complaints received. Of these, 127 were resolved by the Conflict Resolution Process required by the NFPPB, so that only 4 became NFPPB hearings; Performance Result: 97 percent.
- b. **Speed of Acceptance:** Board response regarding acceptance or rejection of application for hearing: On receipt of a complete application for a hearing, the Board will issue a decision on whether the case is accepted for hearing within 20 calendar days.  
**Results:** The Board administered seven hearings in fiscal year 2014-2015. The performance standards and results are shown in Table 3, below. The Board met its performance standards in every case it administered.
- c. **Speed of Decision:** Following completion of a hearing, the Board endeavors to release its written Decision, with reasons, to the parties according to the following schedule:
  - I. Hearing lasting less than 5 days: Decision released within 60 business days
  - II. Hearing lasting 5 to 20 days: Decision released within 90 business days
  - III. Hearing lasting more than 20 days: Decision released within 120 business days.**Results:** The Board administered seven cases in fiscal year 2014-2015. The performance standards and results are shown in Table 4, below. The Board met its performance standards in every case it administered.
- d. **Quality of Service:** Incidence of complaints from parties about any aspect of the quality of the Board's service to them. The goal that there should be fewer than 3 complaints about quality of service for the year.  
**Results:** There were no complaints regarding quality of the Board's service during the fiscal year.

**Table 3.** Board Performance - Service Standards 2014-2015

| Case #  | Board Name                                  | Application Date (Complete) | Acceptance Date | No. of days for acceptance (calendar days) | Service Standard (calendar days) |
|---------|---------------------------------------------|-----------------------------|-----------------|--------------------------------------------|----------------------------------|
| 2014-01 | Zirger et al v. Vandermeer Greenhouses Ltd. | May 1, 2014                 | N/A             | 15                                         | 20                               |
| 2014-02 | Stull v. Town of Halton Hills               | May 2, 2014                 | May 15, 2014    | 13                                         | 20                               |
| 2014-04 | Bidochka v. Henry of Pelham Winery          | Nov 26, 2014                | Dec 3, 2014     | 7                                          | 20                               |
| 2014-05 | Cox v. Town of Mono                         | Jan 28, 2015                | Jan 29, 2015    | 1                                          | 20                               |
| 2013-03 | Sproul v. County of Huron                   | Dec 11, 2013                | Dec 12, 2013    | 1                                          | 20                               |
| 2012-05 | Macpherson v. County of Huron               | Jan 9, 2013                 | Jan 15, 2013    | 6                                          | 20                               |
| 2011-04 | Bannon v. Mastronardi                       | Mar 7, 2012                 | Mar 20, 2012    | 13                                         | 20                               |

**Table 3.** Board Performance - Service Standards 2014-2015 continued...

| <b>Case #</b> | <b>Board Name</b>                           | <b>Hearing Date</b> | <b>Decision Date</b> | <b>No. of days for decision (Business days)</b> | <b>Service Standard (business days)</b> | <b>Status</b>                       |
|---------------|---------------------------------------------|---------------------|----------------------|-------------------------------------------------|-----------------------------------------|-------------------------------------|
| 2014-01       | Zirger et al v. Vandermeer Greenhouses Ltd. | N/A                 | N/A                  | N/A                                             | N/A                                     | Case put on hold May 16, 2014.      |
| 2014-02       | Stull v. Town of Halton Hills               | Aug 6, 2014         | Sep 24, 2014         | 35                                              | 60                                      | Decision in favour of Municipality. |
| 2014-04       | Bidochka v. Henry of Pelham Winery          | N/A                 | N/A                  | N/A                                             | N/A                                     | Resolved at Settlement conference.  |
| 2014-05       | Cox v. Town of Mono                         | TBD                 | N/A                  | N/A                                             | N/A                                     | In progress.                        |
| 2013-03       | Sproul v. County of Huron                   | July 8, 2014        | Sep 12, 2014         | 47                                              | 60                                      | Decision in favour of Municipality. |
| 2012-05       | Macpherson v. County of Huron               | TBD                 | N/A                  | N/A                                             | N/A                                     | Case in progress.                   |
| 2011-04       | Bannon v. Mastronardi                       | July 16, 2014       | Aug 1, 2014          | 12                                              | 60                                      | Case closed.                        |

\* No complaints were received by the Board regarding quality of service in 2014-2015.

## Financial Performance

The Board is funded by the ministry under a Memorandum of Understanding (MOU) signed by the Minister of Agriculture, Food and Rural Affairs 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. Board expenditures are covered by the Innovation, Engineering and Program Delivery (IEPD) Unit of OMAFRA'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 and are covered in this Business Plan. The cost of staff, office facilities and supplies are covered in OMAFRA's Business Plan.

**Table 4.** NFPPB Expenditures 2013-2014

|                                           | <b>2013-2014</b> | <b>2014-2015</b> | <b>Budget</b>   | <b>Variances</b>   | <b>Explanation of Variances</b>                                                                          |
|-------------------------------------------|------------------|------------------|-----------------|--------------------|----------------------------------------------------------------------------------------------------------|
| Board Member Per Diems                    | \$18,063         | \$41,903         | \$33,000        | \$(21,937)         | Two full hearings;; 2 interlocutory (motion) hearings;; 5 pre-hearing conferences held this fiscal year. |
| Travel Expenses                           | \$1,378          | \$7,927          | \$6,000         | \$(6,122)          | Five day training for one Board member                                                                   |
| Translation Services (Decision Summaries) | \$29             | \$5,026          | \$200           | \$(1,471)          | Translation of Complaints Procedure, Annual Reports, Business Plan, MOU                                  |
| Publication ("Citizen's Guide")           | \$0.00           | \$0.00           | \$2,000         | \$(2,000)          | Citizen's Guide publication paid from other Ministry sources.                                            |
| Court Reporters                           | \$2,652          | \$2,297          | \$3,500         | \$ 152             | Fewer full hearings than expected                                                                        |
| Miscellaneous                             | \$1,049          | \$2,465          | \$2,000.00      | \$49               | Police protection services and photocopying services greater than anticipated.                           |
| <b>Total</b>                              | <b>\$ 23,171</b> | <b>\$ 59,607</b> | <b>\$46,700</b> | <b>\$ (12,907)</b> |                                                                                                          |

Total operating expenditure for the 2014-2015 fiscal year was \$59,607 (compared to \$23,171 in 2013-14) (refer to Table 4). The expenditure exceeded the budget of \$46,700 by 28 percent. In the previous year, expenditures had amounted to only 39 percent of the budget. This variation reflects the challenges of accurately predicting the incidence of the different types of hearings the Board may have to conduct (pre-hearings, motion hearings, and full hearings) and the degree of complexity of the cases.

## Board Appointees

Under the Act, the Board consists of at least five members appointed by the Minister of Agriculture, Food and Rural Affairs. Members are appointed through the Public Appointments Secretariat, according to the requirements of the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009 (ATAGAA). The Board invites candidates from across the province, with various backgrounds and expertise in agriculture and municipal affairs, to apply for membership through the [Public Appointments Secretariat website](http://www.pas.gov.on.ca/scripts/en/home.asp) <<http://www.pas.gov.on.ca/scripts/en/home.asp>>.

The Board began the fiscal year with nine members and ended it with eight in March 2015. Member Maxwell Kaiser resigned in October 2014. The term of Vice-Chair Anthony Little was due to end on April 14, 2015; at the end of the fiscal year, a recruitment process meeting the requirements of the ATAGAA was progressing towards replacing him. Table 5 presents the membership list as of March 31, 2015:

**Table 5. Board Members 2013-2014**

| Name                              | Address             | Occupation                           | Original Appointment | Appointment Expiry Date |
|-----------------------------------|---------------------|--------------------------------------|----------------------|-------------------------|
| Kirk W. Walstedt,<br><b>Chair</b> | Maidstone           | lawyer                               | June 1, 2013         | June 30, 2017           |
| Anthony Little,<br>Vice-Chair     | London              | lawyer                               | Apr 6, 2005          | Apr 14, 2015            |
| 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           |

## Acknowledgements

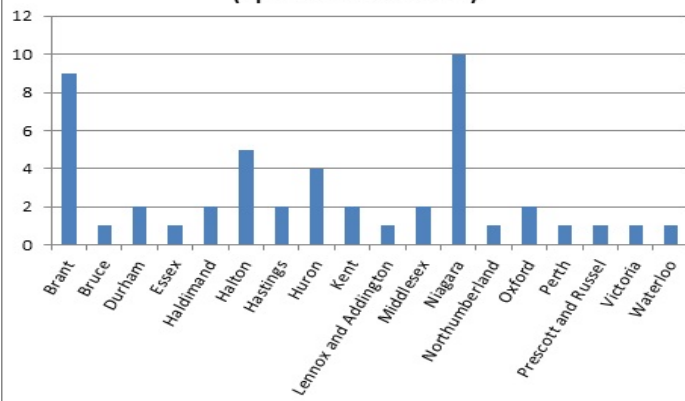
On behalf of the members of the Normal Farm Practices Protection Board, I wish to thank the Minister of Agriculture, Food and Rural Affairs for the services provided to the Board according to the Memorandum of Understanding, and for facilitating the smooth and effective operation of the Board.

Submitted this 24th day of May, 2015.

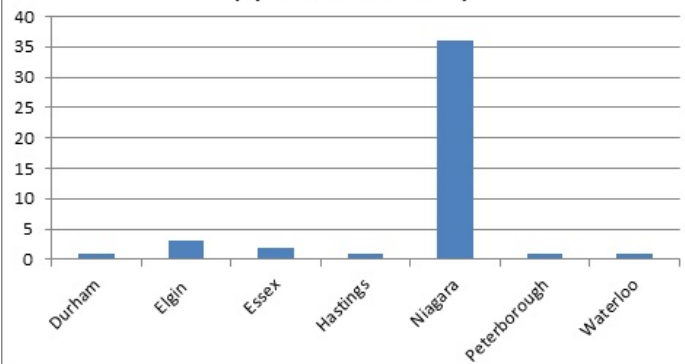
Kirk W. Walstedt, Chair  
Normal Farm Practices Protection Board

## Appendix A: Distribution of Odour, Noise, Flies, and By-law Complaints by County

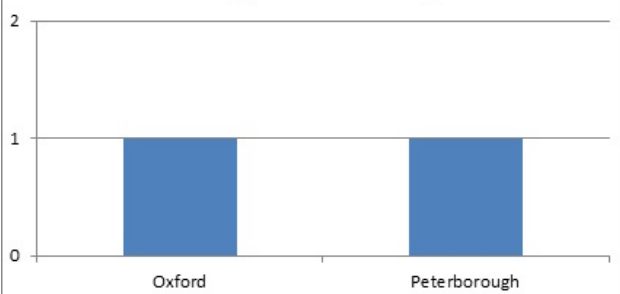
**Figure 4. Odour Complaints  
(April 2014-March 2015)**



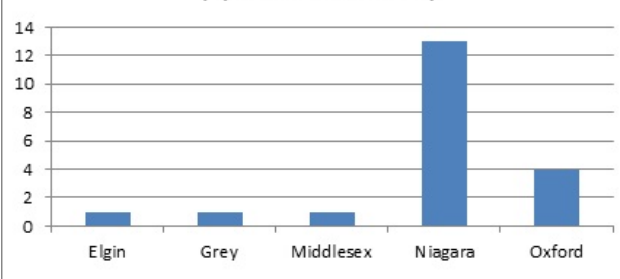
**Figure 5. Noise Complaints  
(April 2014-March 2015)**

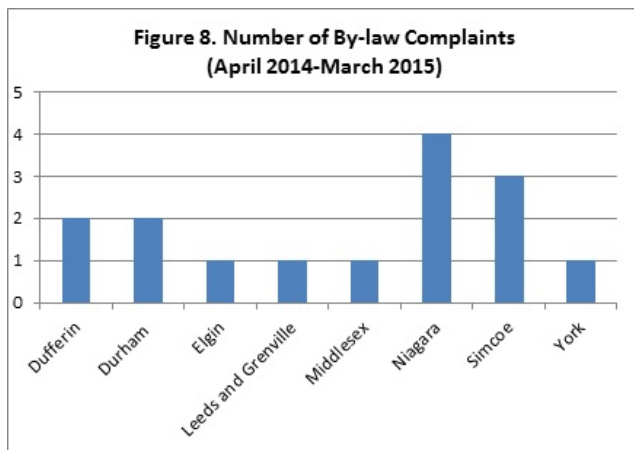


**Figure 6. Number of Dust Complaints  
(April 2014-March 2015)**



**Figure 7. Number of Fly Complaints  
(April 2014-March 2015)**





## **Appendix B: Normal Farm Practices Protection Board Public Complaints Policy**

### **Introduction**

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 (OMAF and MRA) (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**

#### **The Secretary**

Normal Farm Practices Protection Board  
1 Stone Road West, 3rd Floor  
Guelph, ON N1G 4Y2

#### **The Manager,**

Innovation, Engineering & Program Delivery Unit  
Ontario Ministry of Agriculture and Food and Ministry of Rural Affairs  
1 Stone Road West, 3rd Floor  
Guelph, ON N1G 4Y2

#### **Ombudsman Ontario**

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

### **Appendix C: 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.
26. Members should act with honesty, integrity and high ethical standards.

### **Integrity**

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.
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.

### **Collegiality**

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.
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.

### **Objectivity/ Impartiality**

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.
36. Members shall consider the privacy interests of individuals in the conduct of hearings and decisions, and act in accordance with applicable laws.

### **Confidentiality**

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.
40. Each member must adhere to this Code of Conduct and commit to supporting the standards set out in applicable legislation, policies or guidelines.

### **Acknowledgement**

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.  
For more information:  
Toll Free: 1-877-424-1300
42. 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.  
E-mail: [ag.info.ontario@ontario.ca](mailto:ag.info.ontario@ontario.ca)