



NORMAL FARM PRACTICES PROTECTION BOARD

ANNUAL REPORT

2022-23

Message from the Chair

I am pleased to present the Annual Report of the Normal Farm Practices Protection Board for the fiscal year ending March 31, 2023. The report focuses on the Board's achievements for the year. 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.

The Board continues to seek to balance the needs of the agricultural community with provincial health, safety and environmental concerns to resolve disputes regarding agricultural operations and to determine what constitutes a normal farm practice.

On behalf of the Board members, I look forward to continuing to serve the agriculture and food sectors, as well as rural communities, throughout Ontario.

Yours truly,

Glenn C. Walker, Chair
Normal Farm Practices Protection Board

Table of Contents

Message from the Chair	1
1.0 Introduction	3
1.1 Values.....	3
1.2 Mandate and Mission Statement	3
1.3 Governance	3
2.0 Hearings	4
3.0 Highlights from 2022-23	4
3.1 Complaints About Farm Practices.....	4
3.2 Board Activities	4
4.0 Operational Performance	5
4.1 Performance Measures and Results	5
5.0 Financial Performance	7
Operating Expenditures	7
6.0 Staff Resources.....	8
7.0 Remuneration	8
8.0 Recruitment Activity	9
9.0 Inquiries	9

1.0 Introduction

The Normal Farm Practices Protection Board (the “NFPPB” or the “Board”) is established under the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1 (the “Act”) to rule on issues pertaining to farm practices. Board proceedings are subject to the Act and the *Statutory Powers Procedure Act* (SPPA).

Board hearings are less formal than court proceedings but still follow the principles of natural justice. Hearings are managed in such a way that most complainants or respondents may present their case with or without representation by legal counsel if they so choose. This promotes greater access to the services of the Board for all.

1.1 Values

The Board values:

1. timely, evidence-based, impartial, and independent decision making with clearly reasoned and expressed decisions
2. respect and consideration
3. fairness and accessibility
4. adherence to customer service and adjudicative process principles

1.2 Mandate and Mission Statement

The mandate of the Board is established by the Act. Section 3 establishes the Board. It also establishes the Minister of Agriculture, Food and Rural Affairs’ power to appoint the chair, vice-chairs, and members.

Subsection 4 (2) of the Act provides that the Board has the power to:

- a) inquire into and to resolve disputes respecting agricultural operations and to determine what constitutes a normal farm practice; and
- b) 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.

1.3 Governance

The Board is governed by the *Agency and Appointments Directive* (AAD), the *Travel, Meal and Hospitality Expenses Directive*, and other applicable directives from the Ontario Treasury Board/Management Board of Cabinet. Board members are made aware of the AAD and its requirements. All accountability and governance documents required for the Board have been published on the Board’s web page in accordance with the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (ATAGAA). Reimbursements of Board members’ expenses were all within the guidelines of the *Travel, Meal, and Hospitality Expenses Directive*.

2.0 Hearings

A farmer is not liable in nuisance to any person for a disturbance resulting from an agricultural operation carried on as a normal farm practice. Disturbances covered are those arising from odour, dust, flies, light, smoke, noise, and vibration. No municipal by-law applies to restrict a normal farm practice carried on as part of an agricultural operation.

The Act defines a “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.

The operations of the Board are governed by the Act, the SPPA, and its own Rules of Practice and Procedure. The Rules require that complaints about farm practices first attempt the conflict resolution process conducted by Ministry of Agriculture, Food and Rural Affairs (OMAFRA) agricultural engineers and environmental specialists. If this process is not successful, a party can bring an application before the Board.

For unresolved cases, parties may apply for a hearing before the Board. The Board conducts a pre-hearing/settlement conference with the parties. The pre-hearing conference identifies and narrows issues and determines hearing logistics. The settlement conference is a further attempt at settlement. If the settlement conference is unsuccessful, the Board conducts a hearing to determine, among other things, whether the farm practice involved is a "normal farm practice."

3.0 Highlights from 2022-23

3.1 Complaints About Farm Practices

The type of complaints received are either disturbance complaints or municipal by-law complaints. Through the conflict resolution process, OMAFRA advises that ministry staff were able to resolve (i.e., conflict resolution successful or on-going) 91 per cent (88 out of 97) of nuisance and by-law complaints received in 2022-23, thereby avoiding 88 potential Board hearings.

3.2 Board Activities

Seventeen applications received in previous fiscal years were carried over into the 2022-23 fiscal year. In 2022-23, the Board received 10 new applications. Of the total 27 case files, 14 were withdrawn or otherwise invalid. The Board issued five decisions and has eight applications pending.

	# of New Applications Received	# of Applications Withdrawn / Invalid	# of Decisions Issued*	# of Cases Continuing into next fiscal year	# of Cases Closed in 2022-23
2022/2023	10	14	5	8	19

* The total number of decisions may be higher than the total number of cases and/or may skew total numbers because more than one type of decision may be delivered on the same file (e.g., motion(s) decision(s), interim decision(s), final decision, or costs decision).

The Board conducts a pre-hearing/settlement conference with the parties for each application received. The pre-hearing conference identifies and narrows issues and determines hearing logistics. The settlement conference is a further attempt at mutual dispute resolution. The applications withdrawn may be an indication of a successful settlement, thus avoiding a potentially costly hearing.

By-Law complaints received in 2022-23 primarily focused upon greenhouse lighting abatement in the Municipality of Leamington.

Disturbance complaints received in 2022-23 primarily focused upon noise, odour, and flies from agricultural operations.

4.0 Operational Performance

The ATAGAA came into force (in part) on April 7, 2010. The purpose of the ATAGAA is to ensure that adjudicative tribunals are accountable, transparent, and efficient in their operations by having in place governance accountability documents (which include a Memorandum of Understanding, Business Plan, and Annual Report) and public accountability documents (which include a Mandate and Mission Statement, Consultation Policy, Service Standard Policy, Ethics Plan and Member Accountability Framework). The Board met those requirements.

4.1 Performance Measures and Results

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

1. Timeliness of response to request for hearing

Number of days between receipt of a hearing application and response to applicant on whether the application is set for a 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. Time begins when the Board receives a complete application; it does not include time taken for the applicant to provide missing information.

This timeline goal is set based on what is a reasonable amount of time for staff and the Chair to review the application, assign, and confirm a hearing panel's availability, based on workload and the number of staff working on Board files.

Results: The Board received 10 applications for a hearing during the 2022-23 fiscal year and responded within 20 calendar days of receipt of the application, whether the application was accepted or denied, 100 per cent of the time.

2. Timeliness 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:

- a) Hearings lasting less than five days: decision released within 60 calendar days
- b) Hearings lasting five to 20 days: decision released within 90 calendar days
- c) Hearings lasting more than 20 days: decision released within 120 calendar days

This is a measure of the length of time that the parties must wait for the Board's decision after the hearing has ended. It is calculated by counting the number of business days between the completion of the hearing and the release of the decision.

These timeline goals are set based on the volume of evidence presented during a 5-day hearing versus a 20-day or lengthier hearing.

Results: During the 2022-23 fiscal year, the Board was able to meet its decision to release performance standards 80 per cent of the time. There were no hearings lasting more than 20 days in 2022-23.

Hearing Length	Number of Matters	Average Days to Release Decision	Range of days	Number/per cent over standard
<5 days	4	39.5	27 - 55	0/4 (0%)
5 - 20 days	1	91	n/a	1/1 (100%)
Total	5	49.8	27 - 91	1/5 (20%)

3. Quality of Service

The Board's goal is fewer than three complaints about the quality of service received per fiscal year.

The measure is the incidence of complaints from parties about any aspect of the quality of the provision of the Board's service.

Results: The Board did not receive any complaints about any aspect of the quality of the Board's service during the 2022-23 fiscal year.

5.0 Financial Performance

The Board secretariat support is funded by the ministry. A Memorandum of Understanding (MOU) is in place between the Minister of Agriculture, Food and Rural Affairs and the Chair of the Board. The MOU sets out the accountability relationships between the Board, OMAFRA, and the Minister to enable the Board to operate “at arm’s length” from OMAFRA. The “arm’s length” relationship ensures that the Board can operate independently and that OMAFRA does not have any undue influence on the decisions of the Board regarding cases that come before it.

The Board operates under a budget from OMAFRA and as such does not have its own audited financial statements. The budget is used to deliver the hearing services and other business priorities of the Board across the province. The budget includes money for members and staff for agency operating expenses related to transportation, communication, services, supplies and equipment.

Operating Expenditures

Category	22-23 (\$) Budget	22-23 (\$) Actual	22-23 (\$) Variance	21-22 (\$) Actual	20-21 (\$) Actual
Transportation & Communications	10,600.00	436.76	10,163.24	113.99	504.88
Services	66,400.00	66,196.63	203.37	80,063.48	73,868.74
Supplies & Equipment	400.00	0	400.00	0	0
Total	77,400.00	66,633.39	10766.61	80,177.47	74,373.62

The Board was allotted a total budget of \$77,400 for the 2022-23 fiscal year. Of that amount, \$10,600 was dedicated to transportation and communications related expenses. The per diems for members and other costs related to service provision were allotted \$66,400. Supplies and equipment were allotted \$400.

The actual total amount spent on operating expenses was \$66,633.39. The Board underspent its allotted budget by 14 per cent. The total spending for Board operating expenses in the category of transportation and communications was \$436.76 and services was \$66,196.63. Nothing was spent on supplies or equipment.

When compared to the previous fiscal years, spending in 2022-23 was similar in the categories on supplies and equipment, with no funds being spent. In 2022-23, the Board’s underspending of its allotted budget by 14 per cent can be attributed to virtual hearings. While services expenses remained consistent at \$66,196.63, due to virtual hearings being implemented, the total spending for Board operating expenses in the category of transportation and communications was only \$436.76.

6.0 Staff Resources

The ministry has three full-time employees who support and provide services to OMAFRA's two adjudicative agencies, which includes the Board. The three full-time employees assigned include two Adjudicative Services Coordinators/Board Secretaries and one Adjudicative Administrative Assistant, who supports the coordinators and Board members. The ministry provides administrative and financial support through the Corporate Planning and Projects Unit, Research and Corporate Services Division. Legal services are provided to the Board by the Ministry of the Attorney General through dedicated counsel at the Legal Services Branch of OMAFRA.

7.0 Remuneration

2022-23 fiscal year total remuneration was \$66,196.63.

Board Members 2022-23 Fiscal Year				
Name	Location	Occupation	Term(s)	
Glenn Walker, Chair	Chatham	Lawyer	Jan 1, 2022	Dec 31, 2024
Brandi Neil, Vice-Chair	Orangeville	Lawyer	Mar 10, 2023	Mar 09, 2026
Christine Greydanus, Vice-Chair	Petrolia	Lawyer	April 28, 2023	April 27, 2026
Robert Brander, Member	Caledon	Beef and cash crop farmer	Oct 26, 2020	Oct 25, 2023
John Lohuis, Member	Tillsonburg	Dairy and municipal administration background	Jan 30, 2023	Jan 29, 2026
Rod de Wolde, Member	Millbrook	Swine producer	June 10, 2021	June 9, 2024
Lisa Hern, Member	Kenilworth	Beef, cow, calf, and sheep background	May 22, 2021	May 21, 2024
Betty Ann MacKinnon, Member	Glencoe	Councilor and retired municipal administrator	April 29, 2023	April 28, 2026
Judy Dirksen, Member	Harriston	Cattle and crop producer	April 15, 2023	April 14, 2026
Robert Fuller, Member	Simcoe	Lawyer	June 3, 2021	June 2, 2023

8.0 Recruitment Activity

There was no change in board members for the 2022-23 fiscal year.

9.0 Inquiries

Copies of full Board decisions are available online at www.canlii.org or may be requested from the Board directly.

Media requests made to the Board are addressed according to the Communications Protocol appended to the Memorandum of Understanding between the Minister and the Chair.

All questions regarding any matter pertaining to the Board may be directed to:

Normal Farm Practices Protection Board
1 Stone Road West, 2nd Floor NW
Guelph, Ontario N1G 4Y2
Telephone: (519) 826-3433
Toll-Free: (888) 466-2372 Ext. 519-826-3433
Fax: (519) 826-4232
Email: NFPPB@ontario.ca

This document is also available in French. Please contact the Board at 519-826-3433 or by email at NFPPB@ontario.ca to request a copy in French.

Ce document est également disponible en français. Veuillez contacter la commission au 519 826-3433 ou par courriel à NFPPB@ontario.ca pour demander une copie en français.