



Ontario

Conservation Review Board

Annual Report 2008-2009

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Chair's Message

As the Chair of the Conservation Review Board, it is my pleasure to present the 2008-2009 Annual Report. This report covers the events of the fiscal year, spanning the period from April 1, 2008 to March 31, 2009.

The Board plays a key role in the process of resolving disputes between parties with respect to the mandate of the Ontario Heritage Act (the Act). Specifically, the Board conducts proceedings where there are disputes concerning properties that may demonstrate cultural heritage value or interest, or disputes surrounding archaeological licensing, as governed by the Act. The Board is an independent regulatory agency subject to the rules of natural justice, requirements of the Statutory Powers Procedure Act and the Board's Rules of Practice and Procedure. Where there is a dispute, an appeal is referred to the Board to first attempt settlement of the dispute, followed by a formal hearing to examine the evidence and arguments of each party. The Board then makes recommendations to the final decision making authority in the particular case, either a local municipal council or the Minister of Culture, to consider in rendering their final decision.

This past fiscal year has seen great transformation for the Board, in an attempt to further professionalize internal Board processes while also enhancing the service we provide to the citizens of Ontario. The Board undertook a business process mapping process to review all aspects of the Board's administration, redrafted all forms and letters used to serve the public, issued a new set of Rules of Practice and Procedure, enhanced our internal case management processes, launched an updated website with enhanced content and access to case recommendation reports to provide more information to stakeholders, and invested in training to better equip our staff and members to provide a high level of professionalism, skill and accountability in all proceedings. Since amendments to the Act in 2005, cases have become much more complex and all parties have become more sophisticated, which compelled the Board to equally rise to the challenge of organizational improvement.

In 2009 the Government of Ontario formally transferred Ministerial responsibility for the Board from the Ministry of Culture to the Ministry of the Attorney General, as part of a clustering project for select tribunals. This move also helped better communicate the Board's clear mandate as a dispute resolution mechanism, with absolutely no ties to any form of heritage advocacy, which had been mistaken while still associated with the Ministry of Culture.

In all, I am very proud of the hard work and dedication of the Board staff and members in helping drive this transformational change. While this report overviews the Board activities for the 2008-2009 fiscal year, it remains part of an evolution to continually improve the service provided by the Board, and to demonstrate the accountability and transparency of service delivery in Ontario.

Sincerely,

Peter A.P. Zakarow
Chair
Conservation Review Board

SECTION 1: Conservation Review Board Overview

Mission Statement

To provide the people of Ontario with a professional, efficient, transparent and accountable dispute resolution processes in cases concerning properties of potential heritage value or interest and archaeological licensing, according to the Ontario Heritage Act.

Mandate

The Board receives referrals of appeals under the Act concerning either properties of potential heritage value or interest, or archaeological licensing from either local municipalities or the Minister of Culture. Through a proceeding, the Board attempts to settle a dispute and/or hears evidence and arguments by parties. The ultimate result, where a case is not settled, is the development of a Board Recommendation Report which is submitted for the consideration of the final decision making body for that case, which is either a local municipal Council or the Minister of Culture. The Board is an independent regulatory agency subject to the rules of natural justice and requirements of the Statutory Powers Procedure Act.

History and Jurisdiction

The Board was established in 1975 under Part III of the Ontario Heritage Act (R.S.O. 1990, Chapter O.18, as amended).

The Board conducts proceedings on appeals that are referred, which includes both pre-hearing conferences to explore the potential of settlement as well as formal hearings to hear evidence and arguments to best enable the Board to make recommendations to the final decision making power for that particular case. The Board has responsibilities under both Part IV and Part VI of the Act.

In 2005, changes to the Act gave the Board additional responsibilities. The Board now hears objections concerning properties deemed provincially significant by the Minister of Culture under Part IV of the Act. As well, the Act now permits the cross-appointment of Board members to Ontario Municipal Board panels hearing certain appeals under the Act.

In 2009, an Order in Council transferred responsibility for the Board from the Ministry of Culture to the Ministry of the Attorney General (MAG).

The Board's jurisdiction and its authority are defined by the Ontario Heritage Act and the Statutory Powers Procedure Act. Here are the primary areas of the Board's jurisdiction under the Act:

Part 4

1. S.29.(5): Objection to a Notice of Intention to Designate (municipal designation by a municipal Council)
2. S.30.1(6): Objection by the owner to an Amendment of a Designating Bylaw.

3. S.31.(5): Objection to a Repeal of a Designating Bylaw (Council's Initiative).
4. S.32.(4): Application by the Owner for a hearing when Council refuses an application to Repeal a Designating Bylaw (Owner's Initiative).
5. S.32.(14): Objection to a Repeal of a Designating Bylaw.
6. S.33.(6): Application by the Owner for a hearing when Council adds terms and conditions or refuses consent to an Alteration of (Designated) Property.
7. S.34.5(4): Application by the Owner for a hearing when the Minister adds terms and conditions or refuses consent to an Alteration of (Designated) Property.
8. S.34.6(4): Objection to a Notice of Intention to Designate (provincial designation by Order of the Minister of Culture).
9. S.34.8(4): Objection to a Repeal of a Minister's Order (Minister's Initiative).
10. S.34.9(5): Application by the Owner for a hearing when the Minister refuses an application to Repeal a Minister's Order (Owner's Initiative).
11. S.34.9(8): Objection to a Repeal of a Minister's Order.

Part 6

12. S.49(4): Application for a hearing resulting from the Minister of Culture's Refusal to issue or renew or proposes to suspend or revoke an archaeological license.
13. S.52(4): Objection to a Notice of Intention to Designate.
14. S.55.(5): Application by the owner for a hearing when the Minister refuses Revocation of Designation, Owner's Initiative.
15. S.58.(4): Application for a hearing resulting from the Minister of Culture refusing to issue or renew a permit or proposes to suspend or revoke a permit to excavate.

Agency Cluster

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

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

Co-location of the five tribunals occurred in March 2008 to 655 Bay Street in Toronto and in 2009, an Order in Council transferred responsibility for the Board from the Ministry of Culture to the Ministry of the Attorney General.

Changes in Legislation and Regulations

There were no changes to the Ontario Heritage Act or the related regulations that affect the Board during the 08/09 fiscal year.

Rules of Practice and Procedure:

On October 27, 2009, the Board issued revised Rules of Practice and Procedure. These Rules replaced the 2005 Rules of Procedure, and were drafted under the authority of the Statutory Powers Procedure Act.

A copy of the new Rules is available to view on our website at www.crb.gov.on.ca.

SECTION 2: Operations 2008-2009

Caseload:

Board cases have become increasingly more complex in terms of legal interpretation of the Act, the degree of sophistication in party arguments and evidence submission, and the layering of cultural heritage elements. The Board has responded to these pressures with increased member training, closer interaction with Board legal counsel, the establishment of new Rules of Practice and Procedure, and a standardization of administrative practices.

At the beginning of the 2008/09 fiscal year, the Board had 32 open files. Between April 1, 2008 and March 31, 2009, 25 referrals were received from municipalities. All of the referrals received during the past fiscal year were made under s.29 of the act. No referrals were received from the Minister of Culture.

The Board was successful in settling the majority of matters referred during the past fiscal year. The efforts of the Board through its use of pre-hearing conferences resulted in objections being withdrawn in most of these cases.

In total, 30 referrals were resolved during the past fiscal year. Six full hearings were held and for each one a report was made to council. The Board held 47 pre-hearing conferences with each referral having an average of two pre-hearing conferences before resolution by withdrawal or hearing. The Board had 27 active files as of March 31, 2009.

Table 1: Board Caseload

Open Files as of March 31, 2008	32
Referrals received April 1, 2008-March 31, 2009	25
File Closures (Hearings + Withdrawals) April 1, 2008-March 31, 2009	30
Active Files-March 31, 2009	27

Board Members:

The Lieutenant Governor in Council appoints part-time Members to a term of up to five years. Members travel throughout the province to hold hearings and view properties. For more information on Member appointments, please visit the Public Appointments Secretariat website at: www.pas.gov.on.ca.

Chair:

ZAKAROW, Peter A.P.

Vice-Chair:

MURDOCH, Su

Members:

HASLAM, Karen
HENDERSON, Stuart W.
JOUENNE, Maurice*
KIDD, Stuart
KURTIN, Peggy*
MCDONALD, Richard
MOYNIHAN, Terence*

Note: * Indicates Members who were no longer with the Conservation Review Board as of March 31, 2009.

SECTION III: Financial Summary

Expenditures

Table 2: Expenditures 2008-2009

ACCOUNT ITEMS	2008-2009 (\$)
Salary and Wages	37,784
Employee Benefits	4,804
Transportation and Communications	14,366
Services	148,433
Supplies & Equipment	1,328
Transfer Payment	NIL
TOTAL	206,715