



Environment and Land Tribunals Ontario

Board of Negotiation

Annual Report 2009-2010

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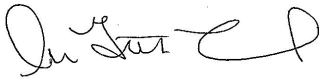
Environment and Land Tribunals Ontario

www.elto.gov.on.ca

Minister:

We have the pleasure of submitting, for your approval, the Board of Negotiation 2009-2010 Annual Report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Gottheil".

Michael Gottheil
Executive Chair
Environment and Land Tribunals Ontario

A handwritten signature in black ink, appearing to read "Ali Arlani".

Ali Arlani
Chief Executive Officer
Environment and Land Tribunals Ontario

2010

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Chair's Message - 2010

On behalf of the Members and staff of the Board of Negotiation (BON), I am pleased to present the Board's Annual Report for the period ending March 31, 2010.

The BON provides valuable mediation services for the people of Ontario. When disputes develop regarding compensation for expropriated land, BON Members mediate possible settlements. There were 26 requests for mediation this year.

During the 2009-2010 fiscal year, one new Member was appointed to the BON.

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

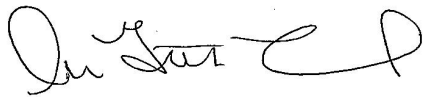
ELTO brings together the BON, the Assessment Review Board, the Conservation Review Board, the Environmental Review Tribunal and the Ontario Municipal Board. I believe the decision by the Government to group these five important tribunals reflects a recognition of the key role each plays in resolving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

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

The staff and Members of ELTO's tribunals are dedicated to achieving these important goals. In particular, the BON is fully committed to maintaining the high regard in which it is held by those whose disputes they work to resolve, and to exemplifying the highest standards of professionalism, integrity and good public service.

I would like to acknowledge the work of the former BON Chair, Marie Hubbard who worked with the Board for a number of years. I also thank each of the Members and the staff for their professionalism and their dedication to serving those who use the Board's services. Finally, I would like to thank Ali Arlani, ELTO's CEO, for his support, and for his achievements over the past few years, leading the operational and administrative staff through a successful, though sometimes challenging transition to ELTO. I look forward to working with Members, staff, stakeholders and the broader community throughout the 2010/11 fiscal year and beyond to help realize the BON's potential within ELTO.

Sincerely,

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

Michael Gottheil
Chair - Board of Negotiation
Executive Chair - Environment and Land Tribunals Ontario

SECTION 1: Board of Negotiation (BON) Overview

Purpose of the BON

The BON provides mediation services to parties involved in disputes over the value of expropriated land – the land owner on the one hand, and the expropriating authority on the other (typically the Crown or a municipality). The BON becomes involved only after alternative avenues for settlement have not succeeded. Meetings with the parties are arranged throughout Ontario at no cost to either party. The BON views the property, reviews all written documentation and considers the submissions from the parties.

Through mediation, the BON attempts to facilitate the parties' efforts to reach a resolution. While it has no power to impose a settlement, the BON will, where sufficient information has been submitted, provide a recommendation to the parties on what would be fair compensation.

Subsection 27(5) of the Expropriations Act provides that BON Members must view the property in question prior to, or during, the hearing. Using its expert mediators, the BON has been able to achieve a high rate of success with the cases brought before it.

BON mediation is conducted confidentially. If a settlement cannot be reached at the BON, the parties may appeal to the Ontario Municipal Board (OMB). However, because of the confidentiality of the mediation process, the BON and OMB take strict measures to ensure that any information received by the BON is kept apart from the OMB. Neither members nor staff of the OMB have access to any information or discussions that were part of the BON process.

History and Jurisdiction

The BON was formed under the authority of the Expropriations Procedures Act 1962/63. The Act, which came into force on January 1, 1964, represented one of the recommendations of the report by the Select Committee on Land Expropriation. As a result of subsequent studies on compensation and procedures, including the reports for the Ontario Law Reform Commission, the Expropriations Act came into force on January 1, 1970.

Agency Clustering Project

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

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

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

The five tribunals included in the cluster are: the Assessment Review Board (ARB), the Board of Negotiation (BON), the Conservation Review Board (CRB), the Environmental Review Tribunal (ERT) and the Ontario Municipal Board (OMB).

SECTION 2: Operations 2009-2010

BON Case Activity

The number of files received and meetings held for the last three years is summarized in the following table.

Table 1: BON Files Received, Meetings Held and Open Files, Fiscal Years 2008/07 through 2009/10

	2007/08	2008/09	2009/10
Files Received	24	30	26
Meetings Held	18	20	26
Open Files		27	18

Members

At present, all BON Members serve on a part-time basis. They are appointed by the Lieutenant Governor in Council to a term of two, three or five years. Members travel throughout the province to conduct hearings and view properties. For more information on Member appointments, please visit the Public Appointments Secretariat website at: www.pas.gov.on.ca.

Below is the list of active BON Members from April 1, 2009 to March 31, 2010

Chair:

Original BON Appointment

GOTTHEIL, Michael
HUBBARD, Marie*

November 2, 2009

BON Members:

BOYAK, Mark
EGAN, Terrance
MILNE, John E.
SIMMONS, Lawrence John
TAYLOR, Ian
YUEN, Jane

March 23, 2005
June 17, 2009
November 1, 2000
March 23, 2005
June 20, 2007
December 19, 2008

*Note: * Indicates Members who were no longer with the BON as of March 31, 2010*

SECTION 3: Financial Summary

Allocation

A single budget for the OMB and the BON is provided within the *Estimates of the Ministry of the Attorney General* on a fiscal-year basis.

Table 1: Expenditures of the OMB and BON

ACCOUNT ITEM	FISCAL YEAR (April 1—March 31)		
	2007-2008 (\$)	2008-2009 (\$)	2009-2010 (\$)
Salary and Wages	5,408,227	5,739,638	5,800,595
Employee Benefits	705,775	740,579	761,011
Transportation & Communications	649,965	666,632	574,418
Services	496,250	534,929	226,259
Supplies and Equipment	291,351	134,653	45,910
Transfer Payments	NIL	NIL	NIL
TOTAL	7,551,568	7,816,431	7,408,193*

* In 2009-10, the OMB/BON had a surplus of 3.3%, this was due in part to vacancies and in part due to the postponement of some reconfiguration of facilities.