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**FIRE SAFETY COMMISSION:
ORDER-IN-COUNCIL APPOINTMENT OF
PAUL STOPCIATI ***

Prepared for:

Standing Committee on
Government Agencies

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INTRODUCTION

This paper has been prepared for Members participating in the Committee's review of the Order-in-Council appointment of Paul Stopciati as a part-time member of the Fire Safety Commission (FSC), which is part of the Tribunals Ontario cluster. It describes the mandate and operations of the FSC, presents information about the appointee, and identifies possible lines of questioning.

FIRE SAFETY COMMISSION (TRIBUNALS ONTARIO)

Enabling Statutes	Responsible Ministry
<i>Fire Protection and Prevention Act, 1997</i>	Solicitor General
<i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009,</i>	Attorney General
Agency Type	Most Recent Annual Report
Adjudicative Tribunal	2018-2019 (Tribunals Ontario)
Activities of the Agency	
The Fire Safety Commission resolves disputes and conducts hearings regarding fire safety matters, including orders made by inspectors or the Fire Marshal for repairs, alterations or installations to a building, structure or premises.	
Board Membership	
Statutory No. of Members: As determined by Cabinet (presently 27, including three vacancies)	Remuneration: Part-time members receive \$472 per diem.
Appointed by Cabinet: All	Term of Office: There is no limitation in legislation.
Position Requirements	
Appointment to an adjudicative tribunal follows a competitive, merit-based selection process that assesses the following criteria: 1. experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal; 2. aptitude for impartial adjudication; and 3. aptitude for applying the alternative adjudicative practices and procedures that may be set out in the Tribunal's rules.¹	

OVERVIEW

Ontario's [Fire Protection and Prevention Act, 1997](#) and its regulations regulate fire safety, and permit designated fire officials to enter and inspect properties. Section 21 of the Act provides the purpose(s) an inspection order may have,

¹ *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Schedule 5, [s. 14 \(1\)](#).

including to remedy any contravention of the *Fire Code* but also “to do anything respecting fire safety including anything relating to the containment of a possible fire, means of egress [i.e., exit], fire alarms and detection, fire suppression and the preparation of a fire safety plan.”²

The Act also provides that any person who considers himself or herself aggrieved by an inspection order made by an inspector may submit a written request to the Fire Marshall for a review of the order.³ A Fire Marshall’s order may be appealed to the Fire Safety Commission (FSC).⁴ According to the Tribunals Ontario website, following a hearing, the FSC has the power to (copied verbatim):

- confirm, amend or rescind an inspection order or review an order of the Fire Marshal, or make any other order the FSC deems appropriate;
- authorize an inspector to have the work required under an order completed; rescind the order; or amend the order or make any other order the Commission deems should have been made under the relevant section and order the inspector to have the work completed; and
- confirm, amend (including explicit power to increase) or rescind an order to pay costs.⁵

A decision made by the FSC may, in turn, be appealed to the Divisional Court in accordance with the rules of court on any issue that is not a question of fact alone.⁶

Figure 1: Overview of Fire Safety Commission Caseloads

Caseload	2018-19	2017-18	2016-17
Appeals opened	34	30	37
Appeals closed	36	26	28
Active appeals at fiscal year end	24	26	22
Hearings held	7	4	10
Decisions rendered	5	9	6

Source: Tribunals Ontario, [2018-19 Annual Report](#).

FINANCIAL INFORMATION

There are no filing fees for the FSC. Tribunals Ontario does not provide specific financial data for the Commission.

² [Fire Protection and Prevention Act, 1997](#), S.O. 1997, c. 4, s. 21(1)(f) and (g).

³ Ibid., s. 25.

⁴ Ibid., ss. 25 and 26; Tribunals Ontario, “[About the FSC](#),” Fire Safety Commission.

⁵ Tribunals Ontario, [About the Fire Safety Commission](#).

⁶ *Fire Protection and Prevention Act, 1997*, s. 27.

RECENT DEVELOPMENTS

As a result of COVID-19, the FSC is currently holding hearings and case conferences by teleconference or in writing. Parties unable to attend by teleconference or in writing can have their matters rescheduled to another date.⁷

According to the Tribunals Ontario [2018-19 Annual Report](#), the FSC recently updated its electronic filing methods to improve communication on active cases. Additionally, Tribunals Ontario notes the FSC had an 86% early resolution rate in 2018-19 due to the use of case conferences. Case conferences can clarify parties' positions and discuss potential resolutions without a hearing.⁸

A May 2020 article in the *Law Times* noted concerns over the number of vacancies on administrative tribunals in the Tribunals Ontario cluster; however, there is no specific mention of the FSC.⁹

PERFORMANCE MEASURES

Figure 2 shows the performance targets and actual results for the FSC in 2018-19.

Figure 2: Performance Measures for Fire Safety Commission, 2018-19

Performance Measure	Target	Actual
Hearing scheduled to take place within 45 days of receipt of the appeal	80%	100%
Decisions released within 60 days of the final hearing event	80%	60%

Source: Tribunals Ontario, [2018-19 Annual Report](#).

Tribunals Ontario notes that delays in issuing decisions arose due to the technical complexity of cases (specifically, the interpretation and application of the Fire Code), statutory requirements for three-member panels, and an inability to allocate full-time adjudicative resources to operations (as most OIC appointed members are part-time), among other reasons.¹⁰

However, Tribunals Ontario notes that decision writing timelines significantly improved in 2018-19, with nearly half of FSC decisions released within seven days and 100% of decisions released within 90 days.¹¹

THE WITNESS

The witness, of Sudbury, is nominated as a part-time member of the Fire Safety Commission.

⁷ Tribunal Ontario, [COVID-19 Updates on Tribunals Ontario Operations](#) (September 14, 2020).

⁸ Tribunals Ontario, [2018-19 Annual Report](#).

⁹ Anita Balakrishnan, "[Tribunal system 'in crisis,' group says](#)," *Law Times*, May 22, 2020.

¹⁰ Tribunals Ontario, [2018-19 Annual Report](#).

¹¹ Ibid.

According to information provided by the Office of the Premier, the witness is self-employed, and serves as a member (part-time) for the Council of the College of Psychologists of Ontario.¹² He is a former sales representative in Northern Ontario for ConvaTec [a medical products and technologies company]. His community involvement includes serving as a board member for the Northern Cancer Research Foundation Sudbury.

POSSIBLE QUESTIONS

What has motivated the witness to seek this appointment?

Can the witness describe how her/his background will be of assistance in dealing with the subject matter and legal issues before the Fire Safety Commission?

Has the witness been given any indication about the time commitment required by this appointment? Is the witness confident that he/she can provide the necessary time while also sitting as a member of the Council of the College of Psychologists of Ontario?

¹² Under Order in Council [629/2020](#), Paul Stopciati, of Sudbury, was appointed as a part-time member of the Council of the College of Psychologists of Ontario on April 9, 2020, for a period of one year.