

**Legislative
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Legislative Research
Information and Technology Services Division
Room 2520, Whitney Block
Queen's Park
Toronto, Ontario M7A 1A9
Telephone: (416) 325-3675
Facsimile: (416) 325-3696

Recherche législative
Division des services de l'information et de la technologie
Bureau 2520, Edifice Whitney
Queen's Park
Toronto (Ontario) M7A 1A9
Téléphone: (416) 325-3675
Télécopieur: (416) 325-3696

200378

**FIRE SAFETY COMMISSION:
ORDER-IN-COUNCIL APPOINTMENT OF
JAMES MINNS ***

Prepared for:

Standing Committee on
Government Agencies

Prepared by:

Lauren Warner
Research Officer
Legislative Research

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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 James Minns as a part-time member of the Fire Safety Commission (FSC). It describes the mandate and operations of the FSC, presents information about the appointee, and identifies possible lines of questioning.

FIRE SAFETY COMMISSION

Enabling Statute	Responsible Ministry
Fire Protection and Prevention Act, 1997	Attorney General
Agency Type	Most Recent Annual Report
Adjudicative Tribunal	2019/20 (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 (currently 27, including one vacancy)	Remuneration: Part-time members receive a \$472 per diem ¹
Appointed by Cabinet: All	Term of Office: No limit specified 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.²	

CURRENT OPERATIONS

The [Fire Protection and Prevention Act, 1997](#) regulates fire safety in Ontario. The Fire Safety Commission (FSC) was established under the Act to hold hearings and resolve disputes on certain fire safety matters.³ It is an adjudicative tribunal within the Safety, Licencing Appeals and Standards Division of Tribunals Ontario.

¹ As fixed by [Schedule B](#) of the Treasury Board Secretariat's *Agencies and Appointments Directive*.

² *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, S.O. 2009, c. 33, Sched. 5, [s. 14 \(1\)](#).

³ [Fire Protection and Prevention Act, 1997](#), S.O. 1997, c. 4, s. 58.

In particular, the FSC hears appeals from orders to make repairs, alterations, or installations to buildings, structures, or premises.⁴ Under the Act, fire inspectors have authority to inspect land or premises, and issue orders to the owner or occupant to take certain actions (e.g., repair a building) to ensure fire safety.⁵ An owner or occupant who disagrees with the order can request a review by the Fire Marshal, and then appeal the matter to the FSC.⁶

The first step in the FSC appeal process is a case conference with all parties (usually the owner/occupant and the fire department), facilitated by a member of the FSC. If the matter is not resolved at the conference, it will proceed to a hearing.⁷ Following the hearing, the FSC may confirm, amend, or rescind the Fire Marshal's order, or make any other order the FSC deems appropriate.⁸

The FSC also hears applications from fire officials to complete work required under an order (for example, where the person ordered to repair a building refuses to do so), and appeals of orders to pay costs incurred by the Province or a municipality for completing such work.⁹

CASELOAD AND PERFORMANCE TARGETS

According to Tribunals Ontario's most recent annual report, the FSC's appeal intake increased approximately 50 percent this past fiscal year. Nevertheless, the FSC did meet its performance targets this fiscal year.¹⁰ No particular reason was identified in the report for this increase. An overview of the FSC's caseload in recent years, as well as its performances targets and actual results, is set out in the tables below.

Figure 1: Overview of the FSC's Caseload

Caseload	2019-20	2018-19	2017-18	2016-17
Appeals opened	51	34	30	37
Appeals closed	49	36	26	28
Active appeals at fiscal year end	25	24	26	22
Hearings held	16	7	4	10
Decisions rendered	10	5	9	6

Source: Tribunals Ontario, [2019/20 Annual Report](#), p. 44.

⁴ Ibid., s. 21(1) and (2) and s. 26.

⁵ Ibid., ss. 19-21.

⁶ Ibid., ss. 25 and 26.

⁷ Fire Safety Commission, "[Case Conferences and Hearings](#)."

⁸ *Fire Protection and Prevention Act*, 1997, s. 26. Decisions made by the FSC may, in turn, be appealed to Divisional Court (s. 27).

⁹ Ibid., ss. 33, 35, and 36. See also Fire Safety Commission, "[Appeals and Applications](#)."

¹⁰ Tribunals Ontario, *Annual Report 2019/20*, p. 43.

Figure 2: FSC Performance Measures

Performance Measure	Target	2019/20 Actual	2018/19 Actual	2018/17 Actual
Hearing scheduled to take place within 45 days of receipt of the appeal	80%	82%	100%	96%
Decisions released within 60 days of the final hearing event	80%	100%	60%	22%

Source: Tribunals Ontario, [2019/20 Annual Report](#), p. 43.

The FSC recently implemented a process to track outstanding decisions, which helped the Commission release all decisions within 60 days of the final hearing in 2019/20.¹¹ As shown in the table above, this achievement represents an improvement over performance from recent years.

FINANCIAL INFORMATION

Tribunals Ontario does not provide specific financial data for the FSC. In 2019/20, expenditures for Tribunals Ontario as a whole totalled about \$86.5 million.¹² Approximately \$25 million was allocated to remuneration for full-time and part-time tribunal members.¹³

RECENT DEVELOPMENTS

Effective November 30, 2020, Tribunals Ontario has an updated [Practice Direction on Hearing Formats](#). The new Practice Direction takes a “digital first” approach; matters are scheduled for video, telephone, or written hearings, rather than in-person hearings, except where

- a different format (e.g., in-person) is required as an accommodation for an Ontario *Human Rights Code* need, or
- a party establishes that the specified hearing format would result in an unfair hearing.¹⁴

The FSC had moved to holding hearings and case conferences by teleconference or in writing earlier this year as a result of the COVID-19 pandemic.¹⁵ However, according to Tribunals Ontario, the “digital first” approach will continue under the updated Practice Direction even when the pandemic is over.¹⁶

¹¹ Tribunals Ontario, *2019/20 Annual Report*, p. 43.

¹² Tribunals Ontario, *2019/20 Annual Report*, p. 74.

¹³ *Ibid.*, p. 76.

¹⁴ Tribunals Ontario, “[Updated Practice Direction on Hearing Formats](#),” November 30, 2020.

¹⁵ Tribunals Ontario, “COVID-19 Updates on Tribunals Ontario Operations,” September 14, 2020.

¹⁶ Tribunals Ontario, “[Updated Practice Direction on Hearing Formats](#),” November 30, 2020.

THE WITNESS

According to information provided by the Office of the Premier, the witness, of Clarksburg, is a Mediator/Arbitrator/Adjudicator/Appraisal Umpire for Global Resolutions Inc., a Deputy Judge for the Ontario Superior Court of Justice, and a certified Adjudicator for Ontario Dispute Adjudication for Construction Contracts.

POSSIBLE QUESTIONS

What has motivated the witness to seek this appointment?

Can the witness describe how the witness's 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 of being able to provide the necessary time?

What contributions does the witness hope to make to the Commission?