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THE ORDER-IN-COUNCIL APPOINTMENT OF QUINTUS THURASINGHAM TO THE HUMAN RIGHTS TRIBUNAL OF ONTARIO *

Prepared for:

Standing Committee on Government Agencies

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INTRODUCTION

This paper was prepared for Members participating in the Committee's review of the Order-in-Council appointment of Quintus Thuraisingham as a member of the Human Rights Tribunal of Ontario (HRTO or the Tribunal), within the Social Justice Division of Tribunals Ontario. It describes the operations of the Tribunal, presents information about the appointee, and suggests possible lines of questioning.

THE HUMAN RIGHTS TRIBUNAL OF ONTARIO

Enabling Statute	Responsible Ministry
Human Rights Code	Attorney General
Agency Type	Most Recent Annual Report
Adjudicative	2019-2020 (Tribunals Ontario)
Activities of the Agency	
The Human Rights Tribunal of Ontario exercises jurisdiction under the <i>Human Rights Code</i> to resolve, through mediation or hearing, applications alleging a breach of the Code. The Human Rights Tribunal of Ontario is designated as part of Tribunals Ontario by a regulation under the <i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i> .	
Board Membership	
Statutory No. of Members: As determined by Cabinet	Position Remuneration¹ Vice-Chairs (Full-Time): \$136,545—\$156,077 Vice-Chairs (Part-Time): \$583 per diem Members (Full-Time): \$110,482—\$126,273 Members (Part-Time): \$472 per diem Executive Chair (Full Time, Tribunals Ontario): \$200,780—\$224,349
Number Appointed by Cabinet: All	
Current Membership: Vice Chairs (6 Full-Time (2 vacant), 10 Part-Time)) Members (11 Full-Time, 10 Part-Time (1 vacant)) Executive Chair/Alternate (Tribunals Ontario) (2) ²	
Term of Office: No limit in the legislation; however, the <i>Agencies and Appointments Directive</i> generally limits the term of appointment of members to adjudicative tribunals to a maximum of ten years. ³	

¹ Management Board of Cabinet, *Agencies and Appointments Directive*, [Schedule B: remuneration of appointees to adjudicative tribunals and regulatory agencies](#).

² The Executive Chair leads Tribunals Ontario as a whole, but also assumes the powers, duties, and functions legislatively assigned to the Chair of each constituent tribunal, including the HRTO. The [Alternate Executive Chair](#) serves as Associate Chair for Tribunals Ontario as a whole, and is also cross-appointed to a number of individual tribunals (including as a part-time Vice Chair of the HRTO).

³ Ibid., s. 3.2.2 Term of appointment – adjudicative tribunals and regulatory agencies.

Position Requirements

Members are appointed in accordance with a competitive, merit-based process that assesses a candidate's:

- (1) experience, knowledge, or training with respect to human rights law and issues;
- (2) aptitude for impartial adjudication; and
- (3) aptitude for applying the alternative adjudicative practices and procedures that may be set out in the Tribunal rules.⁴

CURRENT OPERATIONS

The Tribunal resolves cases of discrimination and harassment under the Ontario [Human Rights Code](#) (the Code). The Code was enacted in 1962. It provides that every person has a right to freedom from discrimination on a number of grounds in relation to employment; accommodation; goods, services, and facilities; contracts; and membership in trade and vocational associations.⁵ Courts consider the Code quasi-constitutional in nature; it can only be overridden by express and unequivocal legislative language.⁶

Upon receipt of an application alleging a violation of the Code, the Tribunal first offers the parties an opportunity to settle issues through mediation. If the parties do not agree to mediation or mediation fails to settle their dispute, the Tribunal holds a hearing. Proceedings at the Tribunal are governed by the [HRTO Rules of Procedure and Practice Directions](#).

In [January 2011](#), the Tribunal became part of the newly designated Social Justice Tribunals (SJTO) cluster under the [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#). This brought together seven adjudicative tribunals dealing with matters related to human rights, residential landlord and tenants disputes, child and family services, education and other matters. In January 2019, SJTO was merged with two other tribunal clusters into a new organization, Tribunals Ontario. The HRTO now operates as part of the Social Justice Division, within Tribunals Ontario.⁷

CASE LOAD

According to the most recent 2019-2020 [Annual Report](#), the Tribunal received 4,577 applications and closed 3,299 cases.

Discrimination in employment was the most commonly alleged violation of the Code in 2019-2020; it was raised in 62% of applications. Discrimination in the provision of goods, services, and facilities was the next most common allegation, raised in 25% of applications.

⁴ [Human Rights Code](#), R.S.O. 1990, c. H.19, s. 32 (3).

⁵ The prohibited grounds of discrimination include race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, and disability ([Human Rights Code](#), ss. 1 to 6).

⁶ [Ontario \(Human Rights Commission\) v. Naraine](#), 2001 CanLII 21234 (Ont. C.A.), at para. 47.

⁷ Tribunals Ontario, [Annual Report 2018-19](#), p. 3; [O. Reg. 126/10](#), s. 2.

SERVICE STANDARDS

According to the Tribunal's website, "service excellence is a priority for the Human Rights Tribunal of Ontario. Our service standards keep us focused on providing fair, effective, and timely dispute resolution." To this end the Tribunal has published four service standards, which it expects to meet 80% of the time.⁸

The Tribunal's most recent *Annual Report* states that compliance with the service standards was as follows in 2019-2020:

Table 2: Service Standards in 2019-2020

Service Standard	Actual Compliance Rate in 2019-2020	Expected Compliance Rate
The first mediation date offered to parties will take place within 150 calendar days from the date the parties agree to mediation.	27%	80%
The first hearing date will be offered to parties within 180 calendar days from the date the application is ready to proceed to hearing.	7%	
Decisions for hearings which take 3 days or less will be issued within 90 calendar days.	76%	
Decisions for hearings which take longer than 3 days will be issued within 180 calendar days.	50%	

The actual compliance rate decreased for three of the service standards from the previous year (2018-19). The compliance rate for the third category, decisions for hearings of 3 days or less, has remained the same.⁹ An update on the Tribunals Ontario website has noted that due to the ongoing COVID-19 pandemic certain HRTO services such as scheduling hearings and issuance of decisions, could take longer than usual.¹⁰

⁸ HRTO, "[Service Standards](#)."

⁹ The following were actual compliance rates for the 2018-2019 (categories follow the same order as in the chart provided above (1) 62% (2) 35% (3) 76% (4) 29%. (Tribunals Ontario, [Annual Report 2018-19](#), p. 48)

¹⁰ Tribunals Ontario, COVID-19 Updates on Tribunals Ontario Operations, March 10, 2021.

FINANCIAL INFORMATION

In 2019-2020, the total operating budget allocation for Tribunals Ontario was \$84 million, with \$62.8 million going to salaries and wages and \$7.8 million to benefits.¹¹ It was projected that in fiscal years 2020-2021 over \$63 million would be allocated, and over \$58 in 2021-2022.¹² In the most recent *Annual Report* the budget for the three former clusters was consolidated into one for Tribunals Ontario which included the consolidation of expenditures and revenues. The reported total expenditures for 2019-2020 was \$86.4 million.¹³

RECENT DEVELOPMENTS

In 2008 major changes to the Code took effect.¹⁴ The revised Code required the new system to be reviewed in three years. Andrew Pinto was appointed to conduct the review and he issued a report in 2012 (known as the “Pinto Report”).¹⁵ The Pinto Report found that the Tribunal had made improvements in effectively and efficiently moving applications through the system. However, concerns remained about the complexity and inaccessibility of the Tribunal’s application forms and rules.¹⁶ The Pinto Report made 16 recommendations with respect to the Tribunal, among them that the forms and processes be streamlined and simplified.¹⁷

In response to the Pinto Report, the Tribunal changed processes, modified forms, and committed to introducing new practice directions for interpreting Tribunal rules.¹⁸ The Tribunal also made changes to its electronic forms so that they could be submitted directly through the Internet, without an email account.¹⁹

Consultations were held in November 2020 with the public and stakeholders on how to improve electronic hearings. According to the [Post-event report: Stakeholder consultation improving electronic hearing formats](#), the feedback received was centered around four themes: (1) access to justice (2) functionality (3) accommodation (4) transparency. In the report, the Tribunal stated that it will be working on addressing the comments and provided a list of actions including streamlining forms and documents for easier digital use, switching from the Teams to Zoom platform and expanding the Access Terminal Project that provides a place for those without digital access.

In [April 2021](#) HRTO announced that it will be conducting virtual consultations to gather feedback on its documents and processes. According to the Tribunals

¹¹ Tribunals Ontario, [2020/21 – 2022/23 Tribunals Ontario Business Plan](#).

¹² Ibid.

¹³ Tribunals Ontario, [2019-20 Annual Report](#).

¹⁴ The most significant change was that applications are now filed directly with the Tribunal, rather than with the Human Rights Commission. Previously, the Commission processed, mediated, and investigated alleged violations of the Code. Where the Commission felt it appropriate, the Commission forwarded complaints to the Tribunal for adjudication.

¹⁵ Andrew Pinto, [Report of the Ontario Human Rights Review 2012](#), November 2012.

¹⁶ Ibid., p. 27.

¹⁷ Ibid., p. 198.

¹⁸ Social Justice Tribunals Ontario, [2013-2014 Annual Report](#).

¹⁹ Ibid.

Ontario website, the consultations were created to gain feedback on the following items

- Draft Revised Form 1: individual application form
- Draft changes to the HRTTO'S Rules to support a Digital-First Strategy
- Draft Public Hearing Docket to be posted on the HRTTO website
- Draft process on how members of the public can arrange to observe a hearing²⁰

The Tribunal Ontario's website states that the feedback on the draft documents will also include a report on the feedback received during the November 2020 consultation session.²¹

In [March 2021](#), the government announced an investment of \$28.5 million for the Justice Accelerated strategy to reduce delays at tribunals. According to the news release, the strategy will build on changes already introduced such as the expansion of online court filing through the Justice Services Online platform.²² The new system was reported to be accessible 24 hours a day and in place by the end of the summer at the Tribunal.²³

COVID-19 Related Changes

Currently, the Tribunal is not holding in person hearings due to the COVID-19 pandemic. However, it continues to hear applications by telephone, video-conference, or in writing, and has issued a [Practice Direction on Hearing Formats During the COVID-19 Pandemic](#). According to media reports, delays are currently an issue at the Tribunal; it was reported to have been slow to move to alternative hearing formats early on in the pandemic, which compounded existing delays due to staffing shortages.²⁴

THE WITNESS

The witness, of Ajax, is seeking appointment as a part-time Member of the Tribunal.

According to the Office of the Premier, the witness is a clerical assistant for Our Lady of Good Health Parish, and a project coordinator for NTEL Connect. His community involvement includes serving as Vice-President for the Society for the Aid of Community Empowerment.

²⁰ Tribunals Ontario, Latest News, [Human Rights Tribunal of Ontario Seeking Feedback on Improving Services](#), April 20, 2021.

²¹ Ibid.

²² Ontario, News Release, "[Ontario Unveils Plans to Accelerate Access to the Justice System](#)," March 11, 2021.

²³ Paola Loriggio, "[New online system aims to combat delays and case backlogs in Ontario tribunals](#)," *National Post*, March 11, 2021.

²⁴ Paola Loriggio, "[Staffing shortage compounds COVID-19 delays at human rights tribunal: experts](#)," *National Post*, August 27, 2020.

POSSIBLE QUESTIONS

What has motivated the witness to seek this appointment?

Based on the witness's knowledge of recent developments at the Tribunal, what challenges does the witness anticipate facing during his appointment?

How will the witness's previous experience be of assistance to the Tribunal?

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