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**HUMAN RIGHTS TRIBUNAL OF ONTARIO
ORDER-IN-COUNCIL APPOINTMENT OF
IVANA VACCARO***

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 Ivana Vaccaro as a part-time 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	2020-2021 (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 Executive Chair (Full-Time) \$200,780—\$224,349 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
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 [Human Rights Tribunal of Ontario's 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 tenant 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 [Annual Report](#) (2020-2021), the Tribunal received 4,231 applications and closed 2,582 cases in the last year.

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: Adjudicative Tribunals and Clusters](#), s. 2.

Discrimination in employment was the most commonly alleged violation of the Code in 2020-2021; it was raised in 55% of applications. Discrimination in the provision of goods, services, and facilities was the next most common allegation, raised in 33% of applications.

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 2020-2021:

Table 2: Service Standards in 2020-2021

Service Standard	Actual Compliance Rate in 2020-2021	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.	26%	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.	11%	
Decisions for hearings which take 3 days or less will be issued within 90 calendar days.	42%	
Decisions for hearings which take longer than 3 days will be issued within 180 calendar days.	27%	

The actual compliance rate decreased for three of the service standards from the previous year (2019-2020). The compliance rate for the second category, decisions for hearings of 3 days or less, increased.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 2019-2020 (categories follow the same order as in the chart provided above (1) 27% (2) 7% (3) 76% (4) 50%. (Tribunals Ontario, [Annual Report 2020-2021](#), pp. 41 and 42).

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

FINANCIAL INFORMATION

In 2020-2021, the total operating budget allocation for Tribunals Ontario was \$83 million, with \$60 million going to salaries and wages and \$8 million to benefits.¹¹ Tribunals Ontario's current [business plan](#) projects that in fiscal year 2021-2022 the total operating allocation would be \$74 million, rising slightly to \$74.5 in 2022-2023.¹²

RECENT DEVELOPMENTS

Pinto Report and Recommended Changes

In 2008 major changes to the Code took effect.¹³ 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").¹⁴ 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.¹⁵ The Pinto Report made 16 recommendations with respect to the Tribunal, among them that the forms and processes be streamlined and simplified.¹⁶

In response to the Pinto Report, the Tribunal changed processes, modified forms, and committed to introducing new practice directions for interpreting Tribunal rules.¹⁷ The Tribunal also made changes to its electronic forms so that they could be submitted directly through the Internet, without an email account.¹⁸

Improved Electronic Hearings Consultation

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 Teams to the Zoom platform, and expanding the Access Terminal Project, which provides a place for those without digital access.

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

¹² Ibid.

¹³ 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.

¹⁴ Andrew Pinto, *Report of the Ontario Human Rights Review 2012*, November 2012.

¹⁵ Ibid., p. 27.

¹⁶ Ibid., p. 198.

¹⁷ Social Justice Tribunals Ontario, [2013-2014 Annual Report](#).

¹⁸ Ibid.

In [April 2021](#), HRTO announced that it would be conducting virtual consultations to gather feedback on its documents and processes. According to the Tribunals Ontario website, the consultations were created to gain feedback on the following items

- Draft Revised Form 1: individual application form
- Draft changes to the HRTO'S Rules to support a Digital-First Strategy
- Draft Public Hearing Docket to be posted on the HRTO website
- Draft process on how members of the public can arrange to observe a hearing¹⁹

Tribunals 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.²⁰

Justice Accelerated Strategy

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.²¹ The new system was projected to be accessible 24 hours a day and in place at the Tribunal by the end of summer 2021.²²

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.²³

THE WITNESS

The witness, of Toronto, is seeking appointment as a part-time member of the Tribunal.

According to the Office of the Premier, the witness, of Toronto, serves as a member (part-time) for the Criminal Injuries Compensation Board. She is an Accredited Family Mediator, Arbitrator, Parenting Coordinator, and founder of Mediated Family Results Inc.; a Roster Mediator of Onsite Court Mediation

¹⁹ Tribunals Ontario, Latest News, [Human Rights Tribunal of Ontario Seeking Feedback on Improving Services](#), April 20, 2021.

²⁰ Ibid.

²¹ Ontario, News Release, "[Ontario Unveils Plans to Accelerate Access to the Justice System](#)," March 11, 2021.

²² Paola Loriggio, "[New online system aims to combat delays and case backlogs in Ontario tribunals](#)," *National Post*, March 11, 2021.

²³ Paola Loriggio, "[Staffing shortage compounds COVID-19 delays at human rights tribunal: experts](#)," *National Post*, August 27, 2020.

Services for mediate393; and a co-founder, Managing Partner, and Family Lawyer for RV Law LLP. Her community involvement includes serving as a member of the Redwood Board of Directors.

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?

How would the witness meet the challenges posed by hearings held in a virtual setting?