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**LICENCE APPEAL TRIBUNAL:
ORDER-IN-COUNCIL APPOINTMENT OF
LEO DEMARCE ***

Prepared for:

Standing Committee on Government Agencies

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CONTENTS

INTRODUCTION	1
LICENCE APPEAL TRIBUNAL	1
THE TRIBUNAL	2
Structure of the Tribunal	2
Financial Information	3
Operational Overview	3
Performance Measures	3
Recent Developments	4
THE WITNESS	5
POSSIBLE QUESTIONS	5

INTRODUCTION

This memo has been prepared for Members participating in the Committee's review of the Order-in-Council appointment of Leo Demarce as a part-time member of the Licence Appeal Tribunal (the Tribunal or the LAT), which is one of fourteen tribunals constituting Tribunals Ontario. It describes the operations of the Tribunal, presents information about the appointee, and identifies possible lines of questioning.

LICENCE APPEAL TRIBUNAL

Enabling Statutes		Responsible Ministry	
<i>Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009</i> and <i>O. Reg. 126/10</i> <i>Licence Appeal Tribunal Act, 1999</i>		Attorney General	
Agency Type		Most Recent Annual Report	
Adjudicative		2020-2021 (Tribunals Ontario)	
Activities of the Tribunal			
The LAT adjudicates applications and resolves disputes concerning compensation claims and licensing activities regulated by the provincial government, including those activities of delegated administrative authorities.			
Board Membership			
No. of Members: At least 3 Appointed by Cabinet: All Term of Office: None specified in statute ¹		Position	Remuneration
		A/Vice-Chair (part-time):	\$744 per diem
		Vice-Chair (part-time):	\$583 per diem
		Members (part-time):	\$472 per diem ²
Position Requirements			
Prospective members go through a merit-based selection process that includes an assessment of experience, knowledge or training in the subject matter and legal issues dealt with by the Tribunal; aptitude for impartial adjudication; and aptitude for applying alternative adjudicative practices and procedures that may be set out in the Tribunal's rules. ³			

¹ [*Licence Appeal Tribunal Act, 1999*](#) (LATA), s. 2.

² Ontario, Agencies and Appointments Directive, see [Schedule B](#): remuneration of appointees to adjudicative tribunals and regulatory agencies.

³ [*Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*](#), S.O. 2009, c. 33, Sched. 5, (ATAGAA) s. 14.

THE TRIBUNAL

The LAT adjudicates applications and resolves disputes concerning compensation claims and licensing activities regulated by the provincial government, including those activities of delegated administrative authorities. It is currently comprised of two main divisions: General Service (LAT-GS) and Automobile Accident Benefits Service (LAT-AABS).

The Tribunal's mandate is to resolve appeals regarding compensation claims and licensing decisions made by various regulators and pursuant to appeal rights set out under approximately 34 different statutes.⁴

LAT-GS hears appeals of government decisions most often related to licensing for driving, liquor, cannabis, and new home construction. It also hears appeals in respect of new home warranties and orders made by the Accessibility Directorate of Ontario.⁵

Structure of the Tribunal

The LAT is one of fourteen tribunals under a cluster designated as "Tribunals Ontario" pursuant to regulations under s. 15 of the [Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009](#) (ATAGAA).⁶

The ATAGAA indicates that the Tribunal must consist of at least three members appointed by the Lieutenant Governor in Council (Cabinet) for terms dictated by same.⁷ Currently, the Tribunal consists of:

- one full-time Executive Chair (plus a vacancy for an Alternate Executive Chair);
- one full-time Associate Chair;
- ten full-time Vice-Chairs (plus one vacancy);
- six part-time Vice-Chairs (plus one vacancy);
- 19 full-time Members (plus three vacancies); and
- 31 part-time Members (plus four vacancies and one forthcoming vacancy due to resignation).⁸

The witness is seeking appointment as a part-time Member.

⁴ Tribunals Ontario 2020-21 Annual Report, [License Appeal Tribunal](#) (2020-2021 Annual Report).

⁵ Tribunals Ontario, Latest News, [Licence Appeal Tribunal – General Service Launches Online Payment for Appeal and Application Fees](#), January 31, 2022.

⁶ [O. Reg. 126/10](#): Adjudicative Tribunals and Clusters, s. 2 (12).

⁷ *LATA*, s. 2.

⁸ Ontario, Public Appointments Secretariat, [Licence Appeal Tribunal \(Tribunals Ontario\)](#).

Financial Information

Tribunals Ontario does not provide specific financial data for the LAT. In 2020-21, expenditures for Tribunals Ontario as a whole totalled about \$82.7 million (down from \$86.4 million in 2019-20).⁹ Approximately \$24 million was allocated to remuneration for full-time and part-time tribunal members.¹⁰

Tribunals Ontario receives revenue in the form of application filing fees for certain tribunals, which is transferred to the Province's Consolidated Revenue Fund. In 2020-21, this revenue totalled about \$11.5 million.¹¹

Operational Overview

LAT-GS Caseload Overview

Due to the pandemic and the provincial emergency orders, the LAT-GS saw a substantial decrease in *Ontario New Home Warranties Plan Act* appeals and *Liquor Licence Act* appeals. The LAT-GS received 483 appeals in 2020-2021, down from 686 appeals in 2019-2020 and 614 in 2018-2019. It closed 455 appeals in 2020-2021, down from 736 in 2019-2020 and 620 in 2018-2019. It also saw a decrease in number of case conferences held, down to 574 in 2020-2021 from 902 in 2019-2020 and 768 in 2018-2019.¹²

LAT-AABS Caseload Overview

The LAT-AABS saw an increase in appeals received at 15,619 in 2020-2021, up from 14,711 in 2019-2020 and 13,565 in 2018-2019. The number of case conferences held continued to steadily rise to 11,519 in 2020-2021, up from 9,971 in 2019-2020 and 8,819 in 2018-2019. The number of hearings held increased to 656 in 2019-2020, up from 369 in 2018-2019, but dropped slightly to 556 in 2020-2021. The LAT-AABS rendered 664 decisions in 2020-2021.¹³

Performance Measures

LAT-GS Performance Measures

The LAT-GS exceeded its targets in all but one category for 2020-2021. It held hearings within 30 days of receipt of completed appeals in 99% of medical appeals under the Highway Traffic Act (HTA), motor vehicle impoundments under the HTA, and appeals of immediate suspension orders regarding businesses or business privileges. Hearing events were scheduled to take place in all other appeal types within 60 days of receipt of a completed appeal in 96% of cases. In cases where a statutory period regarding an order of immediate

⁹ Tribunals Ontario 2020-21 Annual Report, [Financial Summary](#).

¹⁰ Ibid.

¹¹ Ibid.

¹² 2020-2021 Annual Report, License Appeal Tribunal, Table 2: LAT-GS Caseload Overview.

¹³ Ibid., Table 4: LAT-AABS Caseload Overview.

suspension was set to expire in less than 30 days, a hearing was scheduled to commence within the statutory period in 100% of cases in 2020-2021.

Although the LAT issued final decisions within 30 days of final hearing events in only 74% of cases in 2020-2021, this was an increase from 54% in 2019-2020, and 52% in 2018-2019.¹⁴

LAT-AABS Performance Measures

The LAT-AABS aims to convene a case conference within three months of the receipt of an appeal/application in 80% of cases. It only did so in 1% of cases in both 2020-2021 and 2019-2020. In 2018-2019, it only did so in 6% of cases. Tribunals Ontario reported that the LAT was unable to meet all of its performance measures “due to increases in the number of appeals/applications received and resource challenges,” but that it is working to address the issue in the next fiscal year. It did, however, exceed its target by issuing an order/report within 30 days of the conclusion of a case conference in 87% of cases in 2020-2021.¹⁵

New Template for Orders/Reports

Effective April 2020, the LAT began using a new template for the issuance of orders/reports following the conclusion of a case conference. This process increased efficiency and improved the LAT’s ability to provide a timely response to these hearing events, and improved the LAT’s ability to shorten the time for scheduling a merits hearing. The LAT-AABS met its goal of issuing an order/report within 30 days of the conclusion of a case conference in 87% of cases in 2020-2021, up from 31% of cases in 2019-2020.

Recent Developments

Electronic Payment

Beginning on January 31, 2022, the appellants and applicants to the LAT-GS can use a credit card or debit card backed by Visa or Mastercard to pay their filing fee online. This is part of an effort to make Tribunals Ontario more accessible and responsive to the needs of service users. Those without access to internet or technology can pay their filing fee by certified cheque or money order when they send their Notice of Appeal or Application to LAT-GS by mail or courier.¹⁶

Newly Appointed Associate Chair

The LAT appointed Sara Mintz as Associate Chair effective August 26, 2021. Ms. Mintz also serves as the Associate Chair of the Criminal Injuries Compensation Board, and is a cross-appointed adjudicator of the Child and Family Services Review Board and the Custody Review Board.¹⁷

¹⁴ Ibid., Table 1: LAT-GS Performance Measures.

¹⁵ Ibid., Table 3: LAT-AABS Performance Measures.

¹⁶ Tribunals Ontario, Latest News, [Licence Appeal Tribunal – General Service Launches Online Payment for Appeal and Application Fees](#), January 31, 2022.

¹⁷ Ibid., [Statement on Associate Chair Appointment to the Licence Appeal Tribunal](#), September 3, 2021.

New Home Construction Licensing Act Application

The *New Home Construction Licensing Act, 2017 (NHCLA)* was proclaimed into force on February 1, 2021. It established a regulatory scheme for builders and vendors of new homes in Ontario. Builders or vendors licensed or seeking to be licensed under the *NHCLA* may appeal proposals or orders to the LAT. The Tribunal modified its application intake process to accept appeals via email for the LAT-GS and saw a substantial increase in e-filed applications to the LAT-AABS.¹⁸

THE WITNESS

Leo Demarce is nominated as a part-time member of the Tribunal.

According to information provided by the Office of the Premier, Leo Demarce, of Tecumseh, is a part-time member of the Assessment Review Board and owner of Sage Salon + Spa Inc. and Blackie's Corner (2001) Ltd. He is an independent business analyst consultant and a former senior business analyst consultant with Britec Computer Systems.

POSSIBLE QUESTIONS

What has motivated the witness to seek this appointment?

Can the witness describe how his background will be of assistance in dealing with the subject matter and legal issues before the Licence Appeal Tribunal?

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

What challenges, if any, does the witness anticipate the Board will continue to face in its operations as a result of the COVID-19 pandemic?

¹⁸ 2020-2021 Annual Report, License Appeal Tribunal.