

# **Ontario Highway Transport Board Annual Report 2020/21**



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To: The Honourable Caroline Mulroney  
Minister of Transportation

In accordance with Section 33 of the *Ontario Highway Transport Board Act*, R.S.O. 1990, c. 0.19, I have the honour to present the report of the activities of the Ontario Highway Transport Board for the fiscal year 2020/21.

Respectfully submitted,

David Bradley  
Chair

## The Board

The Board is constituted by virtue of and in accordance with the provisions of the *Ontario Highway Transport Board Act*, R.S.O. 1990, c. 0.19. It operates as a quasi-judicial administrative tribunal. Under the *Public Vehicles Act*, R.S.O. 1990, c. P.54 and the *Motor Vehicle Transport Act*, 1987, R.S. (1985) c. 29 (3<sup>rd</sup>. Supp.), the Board controls entry and maintains an orderly development in the business of transporting passengers for compensation in public vehicles, into, out of, within and through Ontario.

### Member of the Board

David Bradley, Chair

## Message from the Chair

In my first annual report as Chair of the Ontario Highway Transport Board (OHTB), I would like to take this opportunity to recognize my predecessor, Gilles Morin, who served on the board for a total of 21 years – as vice-chair from 1999-2016 and as chair from 2016-2020. His dedication to the OHTB and to the people of Ontario is truly remarkable.

The OHTB is a quasi-judicial, arms-length agency of the Government of Ontario that reports to the Minister of Transportation. It administers both federal and provincial legislation – the *Ontario Highway Transport Board Act*, the *Public Vehicles Act* and the federal *Motor Vehicle Transport Act*. Under this legislation, the OHTB's mandate is to license and enforce the economic regulatory regime for the transport of passengers for compensation in public vehicles within, to and from, Ontario. Its activities include market entry control, licensing and administration, enforcement and sanctioning activities.

There were two prominent developments impacting the OHTB during the 2020/21 fiscal year: The worldwide COVID-19 pandemic and the steps taken by the Government of Ontario towards deregulation of the intercommunity bus industry.

The COVID-19 pandemic led to historic declines in passenger traffic, border closures and financial hardship for bus operators. On October 6, 2020, Bill 213, *Better for People, Smarter for Business Act*, was introduced in the Ontario Legislature. Among the key provisions in the Bill was to repeal the *Public Vehicles Act* and the *Ontario Highway Transport Board Act*, which would dissolve the OHTB, as part of a wider plan to deregulate the intercommunity bus sector to allow bus carriers to fill service gaps and meet local community transit needs. The Bill was passed by the Legislature on December 8, 2020 and will be proclaimed into force on July 1, 2021. Until deregulation takes effect, the current intercommunity bus licensing system continues to apply.

Both developments were reflected in the activities of the OHTB. For example, the total number of applications received in 2020/21 was 20, compared to 116 in the previous fiscal year – a decline of almost 83 per cent.

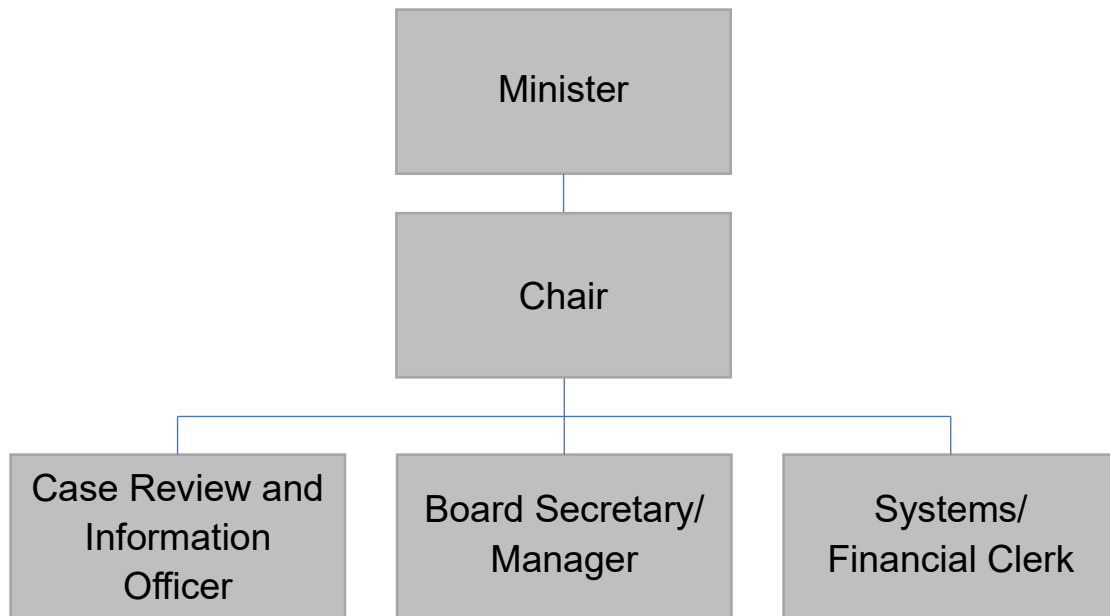
The intercommunity bus and limousine industry play a vital role in providing public transportation services to the citizens of Ontario. In the lead-up towards deregulation of the intercommunity bus sector, the OHTB strives, within its mandate and consistent with its business plan, to provide timely, efficient and responsive service to its stakeholders and to ensure the travelling public is well served.

OHTB staff encourage opposing parties to reach a compromise that is mutually acceptable and that eliminates the requirement for a public hearing, which can be either written or oral. In recent years, this process has dramatically reduced the number of oral hearings which are more expensive and time-consuming than written hearings. Decisions are issued promptly, usually within the two-week target that the OHTB has set for itself.

In closing, I would like to express my thanks to the small, but dedicated OHTB staff, who continued to provide excellent service during what was a very challenging year for everyone.

**David Bradley**  
**Chair**

## Organizational Chart



## Performance Measures

| Outcome                                                                                                                 | Performance Measures                                                                                              | Achievements                                                                        |
|-------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
| Efficient customer service for applications and reviews.                                                                | Length of time to render decision after completion of written or oral hearing.                                    | To date, all decisions have been made within 14 days of completion of hearing date. |
| To provide the highest quality service to the public:<br>Efficient and timely responses to public complaints.           | Length of time to appropriately respond to complaints from the public concerning the quality of service received. | No complaints from the public received.                                             |
| To provide the highest quality service to the public:<br>Efficient and timely responses to any inquiry from the public. | Length of time to respond to any inquiry from the public.                                                         | All general inquiries responded to within two days.                                 |

## Financial Information

|                                    | 2020/2021               | 2019/2020               |
|------------------------------------|-------------------------|-------------------------|
| <b>Revenues<sup>1</sup></b>        |                         |                         |
| Filing Fees                        | \$11,585                | \$46,838                |
| Special Authorities                | 0                       | 1,468                   |
| Costs Recovered for Hearings       | 500                     | 1,900                   |
| U.S. Exchange                      | <u>102</u>              | <u>2,390</u>            |
| <b>Total</b>                       | <b><u>\$12,187</u></b>  | <b><u>\$52,596</u></b>  |
| <b>Expenses</b>                    |                         |                         |
| Salaries and Benefits              | \$229,536 <sup>2</sup>  | \$218,338               |
| Travel and Communication           | 3,311                   | 5,066                   |
| Services <sup>3</sup>              | 36,911                  | 41,908                  |
| Equipment and Supplies             | <u>3,450</u>            | <u>12,596</u>           |
| <b>Total</b>                       | <b><u>\$273,208</u></b> | <b><u>\$277,908</u></b> |
| <b>Net Cost of OHTB Operations</b> | <b><u>\$261,021</u></b> | <b><u>\$225,312</u></b> |

1. Revenues are deposited directly into the Consolidated Revenue Fund.
2. Due to organizational transformation within the Ministry of Transportation (MTO) during fiscal year 2020/21, OHTB staff salaries and benefits were temporarily captured under multiple departments within the ministry, totaling \$229,536.
3. The chair's remuneration is reported under services. In 2020/21, remuneration of former OHTB chair, Gilles Morin, totaled \$24,552; remuneration for current chair, David Bradley, totaled \$8,928. Gilles Morin's remuneration totaled \$37,944 in 2019/20.

# Applications 2020/21

## Special Authorities Processed

| Applicant's Home Base | Total |
|-----------------------|-------|
| U.S.A.                | 0     |
| Other Provinces       | 0     |
| Total                 | 0     |

## Applications Received

| Type/Class | PV | PVS | PVX | Total |
|------------|----|-----|-----|-------|
| Permanent  | 7  | 0   | 6   | 13    |
| Temporary  | 4  | 0   | 0   | 4     |
| Transfer   | 2  | 0   | 1   | 3     |
| Total      | 13 | 0   | 7   | 20    |

Legend:

PV - Public Vehicle Applications (Intra-Provincial Undertaking)

PVS - Public Vehicle (School Bus) Applications (Intra-Provincial Bus Undertaking) School Bus only

PVX - Part I Motor Vehicle Transport Act Applications (Extra-Provincial Bus Undertaking)

# Applications Received by Region

## Outside Ontario

|     |   |
|-----|---|
| USA | 1 |
|-----|---|

## Ontario Regional Boundaries

### Central Region 9

|         |   |
|---------|---|
| Halton  | 1 |
| Niagara | 1 |
| Peel    | 2 |
| Toronto | 5 |

### Eastern Region 8

|                              |   |
|------------------------------|---|
| Frontenac                    | 1 |
| Ottawa                       | 1 |
| Peterborough                 | 2 |
| Stormont, Dundas & Glengarry | 5 |

### Northern Region 1

|           |   |
|-----------|---|
| Nipissing | 1 |
|-----------|---|

### Northwestern Region 2

|             |   |
|-------------|---|
| Thunder Bay | 2 |
|-------------|---|

### Southwestern Region 6

|           |   |
|-----------|---|
| Grey      | 2 |
| Huron     | 2 |
| Middlesex | 2 |

## Hearings Adjudicated

| Type of Hearing | Total |
|-----------------|-------|
| Written         | 3     |
| Oral            | 0     |
| Total           | 3     |

# Summaries - Reasons for Decisions 2020/21

Summary of operating licence applications adjudicated by the OHTB in 2020/21.

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**File No.:** 47886

**Applicant:** Tribal Sun Bus Company (Tribal), Rockland, MA

**Application:** Extra-provincial operation licence for the transportation of passengers on a scheduled service between Toronto, ON and Boston, MA via the Gardiner Expressway, Queen Elizabeth Way, Highway 420 and USA Highways 62, I-90, I-490 to or from the Ontario-USA border crossing at the Rainbow International Bridge.

**Objectors:** Greyhound Canada Transportation ULC (GCTU); Greyhound Lines Inc. (GLI)

## **Applicant's Case**

Tribal was established in 2009 initially focussing on charter trips, completing 18,000 trips since that time. Tribal is now providing scheduled services in a successful partnership with FlixBus in the Northeastern USA. The proposed service will commence after travel restrictions are lifted at the Canada-USA border and operate one round trip per day, six days per week although it may add additional trips and stops based on the level of demand.

Tribal will operate the proposed service as a FlixBus-branded service where Tribal will employ the drivers and own, operate, maintain, repair and clean the buses at its company facilities. FlixBus will handle marketing, ticket sales, traffic control, route scheduling, etc.

Tribal will serve communities, markets and populations currently under-served or overlooked by existing carriers and reduce carbon emissions by reducing the use of private cars and airplanes. It provided 17 completed forms to support the application.

## **Objectors' Case**

GCTU stated the application should be rejected as it has failed to meet the minimum requirements for the issuance of a licence. The current service meets the public need. GCTU has the authority to provide the service applied for with convenient and timely connections, operating seven departures daily between Toronto and Boston in each direction during the winter and 10 daily departures in the summer. Service is offered to the public seven days a week, 365 days a year with extra service added based on demand.

Licensing another carrier will have a huge negative economic impact on the GCTU. Due to the COVID-19 pandemic and the border closure, all international service has been suspended until the borders re-open and passenger travel demand recovers. There will be no noticeable improvement to the current service if the application is granted. It would only negatively impact the current service offered to the public.

The Applicant's projected financial figures indicate the proposed service is not viable and its witnesses provide no complaints about the existing service levels, nor are they aware

of the service provided by the existing service providers. The same witnesses are also supporting other applications to provide similar services with FlixBus which has obviously initiated the proposed service.

### **Applicant's Reply to Objectors**

The existing service has deteriorated over the years and cannot be sustained because of financial losses. There is a public need. An additional carrier will meet the demand. Tribal's service will bring market growth, new customer service, etc.

Tribal has operated safely for 12 years and has a satisfactory rating with the United States Department of Transportation's (USDOT) Federal Motor Carrier Safety Administration – the same rating as the objectors.

### **Decision**

The Board considers the following factors to determine if the application meets the statutory test of public necessity and convenience:

- **Viability of the Proposed Service and the Applicant's Ability to Provide the Service:** Based on the scope of the application and the applicant's current service, the OHTB can conclude that Tribal is ready, willing and able to provide the service applied for.
- **Impact on Existing Carriers if the Application is Granted:** Greyhound has provided a dedicated service to the public between Toronto and Boston and provide 10 daily services in the summer and seven in the winter, seven days a week, 365 days a year. There is also another provider of the same service. Due to the COVID-19 pandemic, the economic impact on Greyhound has been catastrophic causing the company to suspend all international service until the situation improves. Even when the situation returns to normal, the introduction of an additional carrier in this market will economically impact Greyhound's service.
- **Transportation Needs of the Public:** The public support file has no complaints and appear unaware of Greyhound's service. The public demand for the service is low and does not meet the statutory test of public need and convenience.

**The applicant has not met the test of public necessity and convenience. The application is denied.**

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**File No.:** 47264-D

**Applicant:** North Star Limousine Services Inc. (North Star), Toronto, ON

**Application:** An extra-provincial operating licence for the transportation of passengers on a scheduled service between Toronto and New York City, NY via the Gardiner Expressway, Queen Elizabeth Way, Highway 420, USA Highways 62, I-190, I-90, I-490, I-81, I-380, I-80, I-280, I-95 and 495 to/from the Ontario-USA border crossing at the Rainbow International Bridge.

**Objectors:** Adirondack Transit Lines, Inc. (ATLI); Greyhound Canada Transportation ULC (GCTU); Greyhound Lines Inc. (GLI)

### **Applicant's Case**

North Star commenced business in 2006 providing high quality shuttle service and client care under contract to large businesses and organizations. It will start operations after travel restrictions are lifted at the Canada-USA border and will operate one round trip each day, five days a week.

North Star will operate the service under an agreement with Flix Bus Inc. (Flix Bus) whereby North Star will own all the buses and they will be operated by their employees. Flix Bus will handle ticket sales, traffic control, route scheduling, marketing, etc.

There has been strong population growth in the areas applied for and their proposed service will meet a public need. It will serve people (e.g., those who do not use buses, do not own a car, live away from major transportation hubs, eco-conscious travellers and tourists from Europe, who find existing inter-city bus options too infrequent or inconvenient) and communities that are currently overlooked by existing carriers. Twenty-eight forms were filed in support of North Star's application.

Existing carriers provide poor fleet quality and charge higher prices for their service. Market research shows no impact on competitors' ridership in Flix Bus operations. North Star's proposed service, will give the bus industry a new image, helping bus companies to continue to operate.

### **Objectors' Case**

**ATLI:** It has the authority to provide regularly scheduled line run services as applied for as a through service in connection with GTCU which operates seven daily departures in each direction in the winter and ten in the summer – 365 days a year, seven days a week. Two of these daily trips in each direction are interlined with ATLI.

Due to COVID-19, ATLI and GTCU temporarily suspended all international services until the borders re-open. Granting the licence to North Star would have a significant economic impact on ATLI's operations. The COVID-19 pandemic has had a devastating impact on the intercity bus industry. Given the current economic circumstances, the introduction of an untested, untried and unknown new operator along the corridor is likely to have a significant, detrimental impact on the ability of the existing licensees to restore and maintain pre-pandemic service levels.

Granting the licence to the Applicant would add only one departure in each direction five days per week. Consequently, there would be no noticeable improvement to the service offering already in place.

The application does not meet the test of serving public necessity and convenience. There is no genuine public need to licence another carrier on the Corridor. A majority of the people submitting Forms to Support the Application are either unaware of the services

currently provided by ATLI/GCTU and other licensees, or if they have used the services provided by the existing licensees, they have no complaints to report.

**GCTU:** It holds the required operating licences and can provide the service applied for. It operates seven daily departures in each direction in the winter and ten in the summer – 365 days a year, seven days a week. Due to COVID-19, it temporarily suspended all international services until the borders re-open and service is back to normal.

Granting the licence to North Star would have a significant economic impact on their operations. Based on their calculations, there could be a loss of income of \$1,283,100 per year.

Coach Canada also offers an identical service on this Corridor. There would be no noticeable improvement to the public service if the application is granted. It would result in negatively impacting the current service offered to the public.

Public support forms on file are not aware of current service and offered no complaints about the current service providers.

### **Applicant's Reply to Objectors**

North Star is ready, willing and able to provide the service applied for. It has operated charters and tour services for fifteen years. Its clients would be new users in the market and serve people and places that are not served by the current service. Its rates will be the same as charged by Greyhound. The company has a satisfactory safety rating from the Ontario Ministry of Transportation and will comply with Hours of Work regulations and file a timetable if the application is approved.

While FlixBus has been intimately involved in setting up the application and is collaborating with North Star on terminal selection, North Star is going to be the operator of the service (e.g., own and operate all the buses).

Greyhound has failed to take advantage of the population growth to provide an enhanced service and have continued disinvestment in Canada. Competition can lead to innovation and lower prices to the public.

### **Decision**

The OHTB considers the following factors to determine if the application meets the statutory test of public necessity and convenience:

- **Viability of the Proposed Service and the Applicant's Ability to Provide the Service:** Based on the evidence, North Star is ready, willing and able to provide the services applied for.
- **Impact on Existing Carriers if the Application is Granted:** The introduction of another operator to provide the service would add to the negative economic implications for both ATLI and GTCU.
- **Transportation Needs of the Public:** The public support on file in support of the application, provided no evidence that the existing service was inadequate, nor that

there was much awareness that ATLI and GTCU currently provide the service applied for. Based on the evidence, public demand for the service is insufficient to meet the statutory test of public need and convenience.

**The applicant has not met the test of public necessity and convenience. The application is denied.**

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**File No.:** 47494-F

**Applicant:** Equinox Bus Lines Corp. (Equinox), Toronto, ON

**Application:** An extra-provincial operating licence for the transportation of passengers on a scheduled service between the City of Toronto and the City of Boston, MA, as authorized by the relevant jurisdiction via: (1) Queen Elizabeth Way, Highway 420, Niagara Scenic Parkway, I-190, I-290, I-90, N.Y. 63, I-390, I-86, NY 13, NY 79, NY 26, I-81, I-88, I-90, I-91, I-290, Route 146, Worcester Providence Turnpike and I-90 to/or from the Ontario/USA border crossing at the Rainbow International Bridge; and (2) Queen Elizabeth Way, Highway 420, Niagara Scenic Parkway, I-190, I-290, I-90, I-390, I-90, I-690, I-481, I-90, I-91, I-90, I-290, Route 146, Worcester Providence Turnpike and I-90 to/or from the Ontario/USA border crossing at the Rainbow International Bridge.

**Objectors:** Greyhound Canada Transportation ULC (GCTU); Greyhound Lines Inc. (GLI)

### **Applicant's Case**

Equinox is family-owned and managed and has been operating since 2015 as a charter bus and sightseeing tour operator. It wants to exit the sightseeing tours market and enter the scheduled bus services market where there is more stability.

Equinox will operate two daily departures under a business model like that of FlixBus and Ourbus which handle ticket sales and booking via a smartphone app, commencing operations when the USA/Canada border lockdown is lifted. It will target passengers forty years old and under, university students and company employees that travel between Toronto and Boston. Equinox will use social media to promote and advertise their service and a presence on Trip Advisor, Facebook and Instagram.

It will lease six motor coaches (in addition to the eleven-passenger minibus it currently operates) to move into the scheduled bus service market and will outsource the maintenance of the buses until there are enough funds to build and operate a garage.

Equinox will offer a first/last mile approach in partnership with rideshares and/or limo companies, as well as destination marketing organizations, to offer discounts on attractions and hotels (which competitors do not provide) and will provide free amenities on their buses such as WIFI, movies and TV shows.

## Objectors' Case

GCTU/GLI are related companies that combine their services and fleets to provide through 365-day-a-year service between Toronto and Boston, operating seven departures daily in each direction during the winter and ten in the summer. (Coach Canada also provides this service, resulting in 10-14 line runs daily in each direction, seven days per week).

Due to COVID-19 and related border closures services have been temporarily suspended since May 2020. Granting the application will have a significant negative economic impact on GCTU/GLI up to \$2,448,000 per year in lost revenue. The economic impact of COVID-19 on GCTU/GLI's services has been catastrophic and the issuance of another licence will have a compounding effect. Even after the border re-opens there will be a lengthy period of rebuilding public confidence and assurance in bus travel during which time the costs incurred by GCTU/GLU will far outweigh its revenues.

Equinox is not equipped to offer the proposed service applied for. It has never owned a motor coach and have no experience running inter-city scheduled bus service. There is no evidence Equinox has developed any technology which would allow them to deliver similar services to FlixBus, such as a smartphone booking app or other web platforms.

Even if the licence is granted there would be no noticeable improvement to the current service offering as it would mean only one additional departure in each direction per day, bringing the total service offering to 11-15 departures per day for only six out of seven days. There was no public support by passengers expressing a need for service or stating that the current providers are offering an inadequate service.

## Applicant's Reply to Objectors

Objectors are not "interested persons" as defined by the *Public Vehicles Act* as they do not hold the proper licence to provide the service – i.e., GCTU/GLI hold extra-provincial licences to serve all points in the USA, whereas Equinox is applying for a restricted extra-provincial licence to only serve points between Toronto and Boston. GCTU/GLI does not operate a "through service" as legally defined and may be operating in contravention of their operating licence.

## Decision

The OHTB considers the following factors to determine if the application meets the statutory test of public necessity and convenience:

- **Viability of the Proposed Service and the Applicant's Ability to Provide the Service:** Equinox is ready, willing and able to provide the service.
- **Impact on Existing Carriers if the Application is Granted:** Granting of Equinox's application would have a negative economic impact on GCTU/GLI's operations. GCTU/GLI provided financial statistics showing an expected negative economic impact on them if the application is approved.
- **Transportation Needs of the Public:** The application was not supported by witnesses indicating a need for the service. There were names provided but no

reasons for supporting the application. There was no evidence that the current service is inadequate or delays and failures of the existing services. In the OHTB's opinion, the transportation needs of the public as applied for are being met by the current service providers.

**The applicant has not met the test of public necessity and convenience. The application is denied.**