



AGRICULTURE, FOOD AND RURAL AFFAIRS APPEAL TRIBUNAL

ANNUAL REPORT

2023-24

Message from the Chair

It is my pleasure to present the Annual Report of the Agriculture, Food and Rural Affairs Appeal Tribunal (Tribunal) for the year ending March 31, 2024. The report focuses on the Tribunal's achievements for the year. On behalf of the members of the Tribunal, I wish to thank the Minister of Agriculture, Food and Agribusiness for the services provided to the Tribunal according to the Memorandum of Understanding.

The Tribunal serves as the adjudicative body for those who feel aggrieved by decisions made under various pieces of legislation under the auspices of the ministry.

The Tribunal continues to work hard to carry out its adjudicative mandate and achieve its goals. We recognize the need to provide a fair and effective appeal mechanism to clients who come before us, and we have endeavoured to meet clients' needs and expectations in the past year.

On behalf of the Tribunal members, I look forward to continuing to serve the agriculture and food sectors, as well as rural communities, throughout Ontario.

Yours truly,

Glenn Walker, Chair

Agriculture, Food and Rural Affairs Appeal Tribunal

Table of Contents

Message from the Chair	2
Glenn Walker, Chair	2
1.0 The Agriculture, Food and Rural Affairs Appeal Tribunal	4
1.2 Mandate of Tribunal	4
1.3 Mission Statement of Tribunal	5
1.4 Values/Operating Principles	5
2.0 Appeals.....	5
2.1 Tribunal Authorities	5
What can be Appealed to the Tribunal?	5
Additional Tribunal Authorities	6
2.2 Who can Appeal to the Tribunal?	7
2.3 Powers.....	7
Powers of the Minister	7
Powers of the Courts	8
3.0 Highlights from 2023-24	8
3.1 Number of Matters Received by the Tribunal by Act in 2023/24:	8
4.0 Financial Performance	11
4.1 Operating Expenditures	11
5.0 Staff Resources.....	11
6.0 Operational Performance	12
6.1 Expected Outcomes	12
6.2 Timeliness for Releasing Written Decisions after Hearings.....	12
6.3 Client Satisfaction	Error! Bookmark not defined.
7.0 Compliance with Requirements of the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009	14
8.0 Recruitment Activity	15
2023–24 Membership Remuneration	15
9.0 Inquiries	16

1.0 The Agriculture, Food and Rural Affairs Appeal Tribunal

The Agriculture, Food and Rural Affairs Appeal Tribunal (Tribunal) is an adjudicative agency of the Ontario government where decisions made by other bodies can be appealed or where applications and complaints can be heard pursuant to legislation that authorizes the Tribunal to hear those matters. The Chair and all Vice-Chairs also sit on a special roster to hear *Agricultural Employees Protection Act, 2002* matters. All members are part-time per diem appointees appointed by the Lieutenant Governor in Council.

The Tribunal continues to hold its hearings electronically per Rule 18 of the Tribunal's Rules of Procedure.

1.2 Mandate of Tribunal

Constituted under section 14 of the *Ministry of Agriculture, Food and Rural Affairs Act (MAFRA Act)*, the mandate of the Tribunal is to provide an independent, accessible avenue of appeal on a variety of agricultural issues under the following provincial statutes and have them heard by an impartial and knowledgeable tribunal:

- the *Agricultural Employees Protection Act, 2002*
- the *Agricultural Products Insurance Act, 1996*
- the *Agricultural Tile Drainage Installation Act*
- the *Animals for Research Act*
- the *Animal Health Act, 2009*
- the *Assessment Act*
- the *Beef Cattle Marketing Act*
- the *Commodity Board Members Act*
- the *Drainage Act*
- the *Farm Implements Act*
- the *Farm Registration and Farm Organizations Funding Act, 1993*
- the *Food Safety and Quality Act, 2001*
- the *Grains Act*
- the *Livestock Community Sales Act*
- the *Livestock and Livestock Products Act*
- the *Ministry of Agriculture, Food and Rural Affairs Act* (for appeals of decisions made under the *Farm Products Marketing Act* and *Milk Act*)

1.3 Mission Statement of Tribunal

To provide a fair and impartial hearing and decision process for those who are aggrieved by a direction, policy, order, or decision, or who require the resolution of a dispute pursuant to legislation that falls under the mandate of the Agriculture, Food and Rural Affairs Appeal Tribunal.

1.4 Values/Operating Principles

The Tribunal values:

1. Finding facts from evidence, leading to clearly reasoned and expressed decisions.
2. Respect and consideration.
3. Fairness and accessibility.
4. Continuous professional development.
5. Adherence to principles of the adjudicative process.
6. Endeavouring to reach consensus in the decision-making process.

1.5 Governance

The Tribunal is governed by the *Agency and Appointments Directive* (AAD), the *Travel, Meal and Hospitality Expenses Directive*, and other applicable directives from the Ontario Treasury Board/Management Board of Cabinet. Tribunal members are made aware of the AAD and its requirements. All accountability and governance documents required for the Tribunal have been published on the Tribunal's web page in accordance with the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (ATAGAA). Reimbursements of Tribunal members' expenses were all within the guidelines of the *Travel, Meal, and Hospitality Expenses Directive*.

2.0 Appeals

2.1 Tribunal Authorities

What can be Appealed to the Tribunal?

- Any order, direction, decision, or policy of the local marketing boards or of a director made under the *Farm Products Marketing Act* or the *Milk Act*.
- Regulations of commodity boards.
- Orders, directions, or decisions of the Ontario Farm Products Marketing Commission that apply specifically to the aggrieved person, a group of persons of which the aggrieved person is a member, or with respect to a particular dispute or incident involving the aggrieved person.

- Commission regulations and policies, orders, directions, or decisions of the Commission that are of general application are not appealable to the Tribunal.
- A producer or commodity board who is of the opinion that a member of the commodity board has contravened the *Commodity Board Members Act* may apply to the Tribunal to determine whether the member has contravened the Act.
- A decision that results in the refusal to issue a licence, the refusal to renew a licence, or the suspension or revocation of a licence issued under the following Acts:
 - the *Agricultural Tile Drainage Installation Act*, the *Animals for Research Act*, the *Animal Health Act, 2009*, the *Grains Act*, the *Food Safety and Quality Act, 2001*, the *Livestock Community Sales Act*, and the *Livestock and Livestock Products Act*
- Decisions of a Director to not include or remove premises (plants) from a list of plants that comply with the *Beef Cattle Marketing Act* and regulations.
- The eligibility of agricultural properties for the farm property tax class designation under the *Assessment Act*.
- Applications and appeals arising out of the application of the *Farm Implements Act*.
 - Applications may arise from disputes between manufacturers or distributors and dealers of farm equipment, or between an end buyer and a dealer, distributor, or manufacturer. These disputes may relate to repair charges, warranties, repair parts, failure to perform, buy-back provisions, and serial number and safety standards.
 - Appeals may also arise from a decision of a director related to the registration of a dealer or distributor.
- Complaints and applications under the *Agricultural Employees Protection Act, 2002*.
 - May involve requests for access to employees on properties controlled by the employer or complaints regarding non-compliance with the Act.
- Appeals and applications under the *Drainage Act* include:
 - Appeals pertaining to the engineer's report and assessments under sections 48 and 54 of the Act.
 - Appeals pertaining to the quality of the construction of a drainage works under section 64 of the Act.
 - Appeals from decisions of a Municipal Council to not proceed with a petition for drainage works, or where the municipality has not decided within 30 days after the filing of a petition to proceed with a drainage works under Section 5 of the Act.
 - Applications to correct an error in an engineer's report or to vary assessments under sections 58(4) and 76 of the Act.

Additional Tribunal Authorities

The Drainage Act

- Tribunal jurisdiction ranges from adjudicating complaints about assessments and allowances, to evaluating requests for modification of the drainage works including

complaints of quality of construction and directing a municipal council to proceed with drainage works after a petition for drainage has been filed.

- Its powers relate more to the operational or remedial provisions of the Act.

The Farm Registration and Farm Organizations Funding Act, 1993

- The Tribunal accredits general farm organizations, determines the eligibility of a Francophone farm organization to receive special funding, and decides on applications for exemption from registration and/or payment as required by the Act where individuals or farm businesses object to payment and/or registration because these actions would be in contravention of their genuinely held religious convictions and/or beliefs.

The Agricultural Products Insurance Act, 1996 (formerly the Crop Insurance Act)

- Mandated to resolve all disputes arising out of the adjustment of loss under contracts of insurance between Agricorp and an insured person, provided the person has filed an appeal within the time allowed.
- It can also rule on whether a person qualifies for a contract of insurance, if Agricorp has denied coverage.

2.2 Who can Appeal to the Tribunal?

An appellant can be a landowner, a producer, a processor, a consumer, an employee, a transporter, a dealer, a manufacturer, a distributor, an unincorporated association, or any other person or group of individuals who has a statutory right to appeal or make application to the Tribunal.

2.3 Powers

Powers of the Minister

Within 30 days after a decision has been made by the Tribunal under the *MAFRA Act* (arising from appeals of decisions made under the *Farm Products Marketing Act* or the *Milk Act*) and received by the Minister, the Minister may within 30 days, or within such longer period as may be determined by the Minister within the 30-day period:

- a) confirm, vary, or rescind the whole or any part of the decision
- b) substitute for the decision of the Tribunal such decision as the Minister considers appropriate; or
- c) by notice to the Tribunal, require the Tribunal to hold a new hearing of the whole or any part of the matter appealed to the Tribunal and reconsider its decision

Powers of the Courts

Decisions of the Tribunal with respect to licensing issues under the *Agricultural Tile Drainage Installation Act*, the *Animal Health Act, 2009*, the *Animals for Research Act*, the *Beef Cattle Marketing Act*, the *Grains Act*, the *Livestock Community Sales Act*, and the *Livestock and Livestock Products Act* may be appealed to the Superior Court of Justice (Divisional Court) in accordance with the rules of the Court. Decisions of the Tribunal under the *Assessment Act* and the *Farm Implements Act* may be appealed to Divisional Court on matters of law only. There are also limited appeals to the Referee under the *Drainage Act*. All decisions of the Tribunal may be subject to judicial review.

3.0 Highlights from 2023-24

In 2023-24 the Tribunal received a total of 154 new appeals/applications in addition to the 19 cases carried forward from previous fiscal years for a total of 173 cases. By the end of the fiscal year, a total of 141 cases were closed.

3.1 Caseload Statistics for period of April 1, 2023 to March 31, 2024:

Act	# of cases carried over from previous fiscal year	# of new applications/ appeals Received	# of cases Closed
<i>Ministry of Agriculture, Food and Rural Affairs Act</i>	2	6	4
<i>Farm Registration and Farm Organizations Funding Act – Religious Exemptions</i>	1	118	118
<i>Drainage Act</i>	5	17	12
<i>Agricultural Products Insurance Act</i>	1	0	0
<i>Food Safety and Quality Act</i>	0	1	1
<i>Agricultural Employees Protection Act</i>	0	1	0

<i>Farm Implements Act</i>	1	1	0
<i>Assessment Act</i>	9	10	15
Total	19	154	141

Ministry of Agriculture, Food and Rural Affairs Act (Appeals of Decisions made under the Farm Products Marketing Act or Milk Act)

In 2023-24, the Tribunal received a total of six new appeals under the *MAFRA Act* in addition to two appeals continuing from previous years. A total of four matters under the *MAFRA Act* were closed.

Farm Registration and Farm Organizations Funding Act, 1993

The *Farm Registration and Farm Organizations Funding Act, 1993* established a system which provides general farm organizations with a reliable source of funding. Under the Act, farm businesses with a gross farm income of \$7,000 per annum or higher are required to register and to direct an annual registration fee to a farm organization that is accredited under the Act. Provision is also made for individuals to be granted exemptions from registering and/or making payment under the Act based on religious beliefs and convictions. Registrants may also apply for a refund directly with the accredited farm organization within a prescribed time.

In 2023-24, the Tribunal received 118 applications for a religious exemption under the Act in addition to one application carried over from the previous year. The Tribunal granted a total of 118 religious exemptions. One application was carried over to the next fiscal year.

Under the *Farm Registration and Farm Organizations Funding Act, 1993*, the Tribunal is also required to accredit general farm organizations and determine the eligibility of a Francophone farm organization to receive special funding every five years. The reaccreditation process was undertaken, and the Nation Farmers Union – Ontario, Ontario Federation of Agriculture, and the Christian Farmers Federation of Ontario were all reaccredited.

Drainage Act

The Tribunal's practice is to hold a single hearing for all appeals made with respect to a single drainage works. Typically, there is more than one appellant on drainage appeals. Hearings under the *Drainage Act* have moved from in-person hearings held where the drainage works is located to virtual hearings.

In 2023-24, the Tribunal received new appeals relating to 17 drainage works and five matters were carried over from previous fiscal years for a total of 22 active matters. By the end of the fiscal year 12 appeals were closed.

Agricultural Products Insurance Act, 1996

The Tribunal received one appeal under this Act in 2023-24, which is still ongoing.

Agricultural Employees Protection Act, 2002

The purpose of the AEPA is to protect the rights of agricultural employees while having regard to the unique characteristics of agriculture.

The Tribunal may hear complaints where it is alleged that there has been a contravention of the AEPA.

The Tribunal received one appeal under this act in 2023-24, which is still ongoing.

Farm Implements Act

The *Farms Implements Act* has two main functions – first, to regulate farm implement dealers and distributors within the province and, second, to resolve disputes concerning farm implements between a purchaser, dealer, distributor, or manufacturer.

Any person who wishes to carry on the business of a farm implements dealer or distributor within the province must register with the Director of the *Farm Implements Act*. The Director may refuse to grant or renew or may suspend or revoke registration if the applicant or registrant is in breach of a condition of the registration or a provision of the Act or its regulations or would be if registered.

The Tribunal received one new application under this Act during the 2023-24 fiscal year. Two applications are ongoing to the next fiscal year.

Assessment Act

The Tribunal hears appeals referred to it by the Assessment Review Board regarding the eligibility of properties for the farm property class tax rate. Properties which receive the farm property class tax rate are assessed at up to 25 per cent of the residential tax rate.

In 2023-24, the Tribunal received 10 new appeals regarding farm property tax with nine appeals carried forward from previous years. A total of six *Assessment Act* matters were closed.

4.0 Financial Performance

4.1 Operating Expenditures

Category	2023-24			2022-23 Actual
	Budget	Actual	Variance	
Transportation and Communications	\$10,000	\$1,063.33	\$8,937.67	\$1,028.77
Services	\$230,000	\$130,780.75	\$99,219.25	\$227,691.29
Supplies and Equipment	\$500	1,790.66	-\$1,290.66	0
Total	\$240,500.00	\$133,634.74	\$106,866.26	\$228,720.06

The Tribunal operates under an operational expenses budget allocated by the Ministry of Agriculture, Food and Agribusiness and as such does not have its own audited financial statements. The Tribunal resource requirements are incorporated under the ministry's business plan. The budget for operating expenses allocated will continue to be used to deliver on the Tribunal's business priorities.

The Tribunal cannot predict how many new appeals will be brought forward by the public, clients, or stakeholders in any given fiscal year. Budget forecasting is based on trends in historical volumes of hearings, active matters that transcend the previous fiscal year, government fiscal policies or social, environmental, or economic factors that have the potential to impact the sector.

Variances such as the actual expenditure under Services between 2022-23 and 2023-24 can be explained by a variety of factors such as more matters making it to a hearing before a full panel, the duration of the hearings themselves, or workload and catchup relating to cases that were delayed because of, or filed during, the pandemic.

5.0 Staff Resources

The ministry has employees who support and provide services to the Ontario Ministry of Agriculture, Food and Agribusiness's two adjudicative agencies, which includes the Tribunal. The ministry provides administrative and financial support through the Corporate Planning and Projects Unit, Business Services Branch, Research and Corporate Services Division. Legal services are provided to the Tribunal by the Ministry of the Attorney General through dedicated counsel at the Legal Services Branch of the Ministry of Agriculture, Food and Agribusiness.

6.0 Operational Performance

6.1 Expected Outcomes

- Efficient decision making and timely release of decisions.
 - The Tribunal's target is to release decisions within 30 days of completion of a hearing except for decisions under the *MAFRA Act*, which has a decision timeline of 20 days from the completion of a hearing.

6.2 Timeliness for Releasing Written Decisions after Hearings in 2023/24:

In 2023-24, the Tribunal released decisions under the following Acts within the specified time frame:

Act	Target number of days to release a decision	Average number of days to release a decision	Number of decisions released in 2023/24	Number of Decisions Released within the Target Time in 2023/24
<i>Ministry of Agriculture, Food and Rural Affairs Act</i>	20	20.7	4	2 (50%)
<i>Farm Registration and Farm Organization Funding Act</i>	30	29	118	118(100%)
<i>Drainage Act</i>	30	51	12	0 (0%)

<i>Food Safety and Quality Act</i>	30	30	1	1 (100%)
<i>Assessment Act</i>	30	36	6	2(33%)

No decisions were released under any other acts in the 2023-24 fiscal year.

Note: For performance tracking purposes, the date a decision is released is used to designate the fiscal year in which it is tracked, rather than the date of the hearing.

6.3 Client Satisfaction

The Tribunal membership and support staff strive to provide excellent client service in the delivery of hearing services and actively pursue opportunities for continuous improvement.

During the 2023-24 fiscal year, the Tribunal made significant strides in enhancing client services through the digitization and enhancement of the Tribunal's client survey. The survey was refreshed to improve accessibility, inclusivity, response rates, and the utility of the data being collected and covered a broader spectrum of critical areas related to the Tribunal's services. These areas included access to information and the various appeal processes (pre-hearing conferences, hearings, decisions, withdrawals, and dismissals). By expanding the scope, the Tribunal sought to gain comprehensive insights into its performance and identify areas for improvement.

Surveys were electronically sent to all clients who came before the Tribunal and 11 responses were received. The Tribunal aimed to attain an 80 per cent overall client satisfaction rate across all service areas.

Assessing client satisfaction from the 11 surveys collected, and measured against the 80 per cent client satisfaction rate, the Tribunal's performance in expanded areas of assessment were as follows for the 2023-24 fiscal year:

Access to information:

- The Tribunal achieved its target satisfaction rate, with only six per cent of respondents expressing dissatisfaction.
- However, 55 per cent of respondents marked "Not applicable" when asked about the Tribunal's website, suggesting room for improvement in awareness and available information.

Appeal processes:

- Pre-hearing Conference Process:
 - 85 per cent of respondents who completed a pre-hearing conference were either “Satisfied” or “Very satisfied.”
 - 10 per cent had a neutral response, and only five per cent were dissatisfied.
- Hearing Process:
 - 85 per cent of respondents who attended a hearing were either “Satisfied” or “Very satisfied.”
 - 10 per cent had a neutral response, and only five per cent were dissatisfied.
- Decision Process:
 - Of the four respondents whose matter went to a hearing, 75 per cent expressed satisfaction with the timeliness of the release of Tribunal decisions.
- Withdrawal Process:
 - All six respondents involved in matters that were withdrawn expressed either “Satisfied” or “Very Satisfied” feedback.
- Dismissal Process:
 - The sole respondent involved in a matter that was dismissed provided 100 per cent “Very Satisfied” feedback.

Overall Satisfaction with the Appeal Process:

- 82 per cent of respondents indicated they were “Satisfied” or “Very Satisfied” with the Tribunal’s appeal process.

These results provide valuable insights for the Tribunal to enhance its services and continue meeting client expectations.

7.0 Compliance with Requirements of the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009

The ATAGAA came into force (in part) on April 7, 2010. The purpose of the ATAGAA is to ensure that adjudicative tribunals are accountable, transparent, and efficient in their operations by having in place governance and public accountability documents, which include a Memorandum of Understanding, Business Plan and Annual Report; and a Mandate and Mission

Statement, Consultation Policy, Service Standard Policy, Ethics Plan and Member Accountability Framework by April 1, 2012. The Tribunal continued to meet these requirements in the 2023-24 fiscal year.

8.0 Recruitment Activity

The Tribunal is guided by the mission of the Public Appointments Secretariat to ensure the most qualified individuals having the highest personal and professional integrity serve the public on the province's provincial agencies. Since 2021 no new members have been added, however various Vice-Chairs and Members have been re-appointed. Updated membership and respective term and compensation information for the Tribunal as of the 2023-2024 fiscal year is as follows:

2023–24 AFRAAT Members

Tribunal Members 2023-24 Fiscal Year				
Name	Appointment date	Expiry date	Per diem remuneration rate	Total annual remuneration (2023-2024)
<u>Glenn Walker (Chair)</u>	Jan 9, 2020	Jan 8, 2025	\$788	\$37,036.00
<u>Steve Moutsatsos (Vice-Chair)</u>	May 6, 2021	May 5, 2026	\$788	\$10,244.00
<u>Marc A. J. Huneault (Vice-Chair)</u>	May 13, 2021	May 12, 2026	\$788	\$10,298.34
<u>Robert Fuller (Vice-Chair)</u>	Jun 3, 2021	Jun 2, 2026	\$788	\$9,062.00
<u>Don McNalty (Vice-Chair)</u>	Jul 8, 2021	Jul 7, 2026	\$583	\$4,081.00
<u>John Johnston (Vice-Chair)</u>	Jul 8, 2021	Jul 7, 2026	\$583	\$2,915.00
<u>Christine Greydanus (Vice Chair)</u>	Jan 31, 2019	Jan 30, 2029	\$788	\$11,426.00
<u>Katie DeBlock Boersma (Vice-Chair)</u>	Feb 28, 2019	Feb 27, 2029	\$788	\$13,790.00
<u>Tricia Schouten (Vice-Chair)</u>	Feb 28, 2019	Feb 27, 2029	\$788	\$11,820.00
<u>Brandi Neil (Vice-Chair)</u>	May 2, 2021	May 1, 2029	\$788	\$7,486.00
<u>Andrew McBride (Vice-Chair)</u>	Aug 17, 2017	Aug 17, 2024	\$583	\$1,166.00

<u>Sarah Judd (Member)</u>	Jul 22, 2015	Jul 21, 2025	\$472	\$236.00
<u>Judy Dirksen (Member)</u>	Apr 15, 2021	Apr 14, 2026	\$472	\$2,596.00
<u>Betty Ann MacKinnon (Member)</u>	Apr 29, 2021	Apr 28, 2026	\$472	\$472.00
<u>David Stevens (Member)</u>	Jun 20, 2019	Jun 19, 2029	\$472	\$0
<u>David Fawcett (Member)</u>	Aug 29, 2019	Aug 28, 2029	\$472	\$3,413.71

9.0 Inquiries

Copies of decisions are available online at www.canlii.org or may be requested from the Tribunal directly.

Media requests made to the Tribunal are addressed according to the Communications Protocol appended to the Memorandum of Understanding between the Minister and the Chair.

All inquiries to the Tribunal can be made as indicated below.

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This document is also available in French. Please contact the Tribunal at 519-826-3433 or by email at AFRAAT@ontario.ca to request a copy in French.