



Social Justice Tribunals Ontario

Providing fair and accessible justice

Social Justice Tribunals Ontario 2011 - 2012 Annual Report

*Child and Family Services Review Board
Custody Review Board
Human Rights Tribunal of Ontario
Landlord and Tenant Board
Ontario Special Education (English) Tribunal
Ontario Special Education (French) Tribunal
Social Benefits Tribunal*

Disponible en français

Mandate, Mission and Values Statement

Our Mandate

Social Justice Tribunals Ontario is a cluster of seven adjudicative tribunals with a mandate to resolve applications and appeals brought under eight statutes relating to child and family services oversight, youth justice, human rights, residential tenancies, disability support and other social assistance, and special education.

Our Mission

Social Justice Tribunals Ontario (SJTO) and its constituent tribunals will:

- provide fair, effective, timely and accessible dispute resolution
- promote consistency in the application of the legislation and its processes while remaining responsive to differing cases, party needs and to an evolving understanding of the law
- maintain the highest standards of professionalism, integrity and quality of work and
- be leaders in the administrative justice community.

Our Values

The Core Values inform how the SJTO and its constituent tribunals approach their mandate. They set the foundation for rules and policies, how those rules and policies will be applied, and how we deliver service to the public. The Core Values are:

- Accessibility
 - We will strive to enhance full and informed participation of parties in the process, whether or not they have legal representation.
 - We are committed to diversity and inclusiveness.

- We will provide dispute resolution processes that are proportionate and appropriate to the issues in dispute.
- Fairness and Independence
 - SJTO and its constituent tribunals must be, and be seen to be, impartial and independent in their decision making functions.
 - Our decisions will be based on the evidence and the applicable law, and will be supported by clear, concise and coherent reasons.
- Timeliness
 - We are committed to providing timely dispute resolution services and issuing decisions within a reasonable timeframe after a hearing.
- Transparency
 - Our processes, procedures and policies will be clear, understandable and consistently applied.
- Professionalism and Public Service
 - Members and staff will exhibit the highest standards of public service, integrity and professionalism.
 - We will be responsive to stakeholder needs by engaging in meaningful outreach and consultation.

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SOCIAL JUSTICE TRIBUNALS ONTARIO

Executive Chair's Message

Michael Gottheil, Executive Chair
Social Justice Tribunals Ontario

I am pleased to present the 2011-2012 annual report of Social Justice Tribunals Ontario (SJTO). Our 2010-2011 annual report, which covered only the three months from our inception in January 2011 to the end of that fiscal year, was necessarily long on intentions, but short on specific actions and achievements in building the new organization. I believe we have made remarkable strides in the past 12 months.

It is worth commenting once again that the concept of "clustering" is unique to Ontario. While there is a trend in a number of jurisdictions worldwide to restructure the administrative justice sector, generally through tribunal amalgamation, clustering brings together previously separate tribunals into a single organization, but maintains the statutory mandate and membership of each. This permits us to ensure that subject area expertise and specialized case resolution processes remain as fundamental principles of administrative justice, while providing the base to achieve both resource efficiencies and indeed strengthen the overall capacity, diversity and effectiveness of the organization.

Taking advantage of the efficiencies, and the depth and breadth of the skills, experience and organizational capacity that flow from clustering, takes reflecting, planning and transforming. And, in the context of the SJTO, which provides critical services to the public, it also means ensuring that we continue to meet our mandates on a daily basis. Over the past year we have undertaken a number of initiatives.

For example, we completed an extensive strategic planning exercise that will guide our continuing transformation and, in doing so, we developed a vision for that transformation: *To redefine/redesign previously distinct individual tribunals into a single, integrated administrative justice organization, with recognizable component parts based, at least in part, on the original tribunals.* We also developed a Mandate, Mission and Values statements that provide unifying themes for our development.

On the adjudicative front, we have started to reap the benefits of clustering, especially in the more effective use of resources. Some tribunals, for example, which previously had to rent accommodation in hotels in locations where they had no hearing rooms, are now sharing hearing rooms, and in some cases administrative staff, thus making more prudent and responsible use of public resources while providing parties with better, more reliable service.

This would not have been possible, of course, without the work of our staff, who have risen to the challenges inherent in our transition. I especially appreciate the work of our regional staff in starting to implement our regional presence.

Another of the real benefits of our cluster is that it creates the opportunity for us to share not only resources, but also our adjudicative approaches, subject area expertise, our experiences, perspectives and backgrounds. While each tribunal deals with cases under a specific statute, the social, economic and human context of the disputes that come before us, and the impact of our decisions, are often interconnected. The law may compartmentalize issues, but the challenges that face individuals are not generally so easily dissected. For example, individuals may be at the LTB facing eviction because they have lost their job and are awaiting an SBT ruling on benefits, or because of a dispute with a fellow tenant related to mental health issues. A student may be facing expulsion from school because incidents of bullying related to race or sexual orientation have boiled over. Providing the opportunity for SJTO adjudicators and staff to share their respective skills, experience and backgrounds will surely allow us to provide fairer, more just and more timely dispute resolution.

Change of this scope is bound to raise questions among stakeholders, and so I, along with the Associate Chairs, have been making a concentrated effort to speak with both our traditional stakeholders and with others who may have an interest in more than one of our tribunals, such as, for example, a presentation to the Northern Region Legal Clinic training conference. We have formalized a consultation policy, and we will be further developing our points of contact with the community in the coming year.

Finally, I want to thank the Associate Chairs of each of the tribunals for their ongoing support during the year, and their contributions both with SJTO and in the broader adjudicative tribunal community, which clearly recognizes our leadership's expertise. For example, Gary Yee chaired last year's annual conference of the Council of Canadian Adjudicative Tribunals and spearheaded the development of our Professional Development Institute; Suzanne Gilbert headed up the SJTO strategic planning project and will be taking on our French Language Services initiative; Lilian Ma, recognized by the Federation of Asian Canadian Lawyers, continues to be deeply

involved in the work of the Society of Ontario Adjudicators and Regulators; David Wright took on the important role of heading up our Rules Committee and continues to present regularly at Ontario Bar Association and other conferences.

All of this demonstrates, I believe, that SJTO is well on its way to fulfilling its mission and mandate, and in doing so, demonstrating our commitment to providing a consistent, accessible and positive face to justice in Ontario.

Legislative Authority

Social Justice Tribunals Ontario (SJTO) is established under the authority of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (the Tribunals Act). The creation of SJTO is part of the government's ongoing efforts to ensure adjudicative tribunals best serve the public by being accountable, transparent and efficient in their operations, and independent in their decision making functions.

The government announced its intention to form a social justice tribunals cluster in August 2010 and passed the necessary regulation on January 25, 2011, bringing together the Child and Family Services Review Board, Custody Review Board, Human Rights Tribunal of Ontario, Landlord and Tenant Board, the Ontario Special Education (English) Tribunal, the Ontario Special Education (French) Tribunal, and the Social Benefits Tribunal. Michael Gottheil was appointed Executive Chair on March 7.

Section 15 of the Tribunals Act states that the government may designate a cluster when "*the matters that the tribunals deal with are such that they can operate more effectively and efficiently as part of a cluster than alone.*"

In addition to the broad goal of achieving effectiveness and efficiency, the Act requires that the cluster develop, as one of several public accountability documents, a mandate and mission statement. The SJTO Mandate, Mission and Values statement appears elsewhere in this report.

The Tribunals Act also requires a cluster to develop a consultation policy, a service standard policy and a membership accountability framework. These documents were prepared and presented for approval to the Attorney General prior to the April 1, 2012 deadline. The cluster also developed, as required, an ethics plan, which must be approved by the province's Conflict of Interest Commissioner.

In addition, SJTO is subject to policies of the Management Board of Cabinet, which, for example, require SJTO to develop an accessibility plan, provide annual business plans and annual reports, and comply with other regulations that ensure public accountability within a framework of adjudicative independence.

More information about the development of the accountability documents is found in the following sections.

Operational Highlights

Creating the new organization

The start of SJTO's first full fiscal year was marked by the transfer of financial responsibility for the constituent tribunals, including staff and Members, to the Ministry of the Attorney General.

Bringing together seven adjudicative tribunals into a single organization presents many opportunities to improve effectiveness and efficiency, but it also has its share of challenges. It requires a long term strategic vision to guide the many short term operational decisions required to ensure a successful transition. Work began on creating the new organizational structure for SJTO to guide the transition, and at the end of June, the cluster announced several important initiatives, which have since been completed. These include:

- Appointing an *Executive Lead* to oversee the administration of all SJTO operations and, working with the Executive Chair, providing strategic leadership, executive oversight, and leading the transformation towards a unified organization.

- Forming a new *Strategic Business Services Branch*, to bring together corporate services and align administrative and operational resources. This limits duplication of corporate services across tribunals (e.g. finance, business planning) and allows for greater consistency in corporate service standards.
- Creating a new *Legal Services Unit* to allow more effective use of legal resources.
- Establishing a *Corporate Communications Unit* to oversee external and internal communications, provide issues management advice, and support outreach and stakeholder engagement.

Adjudication and dispute resolution are SJTO's core businesses, and to more efficiently support these activities, the transitional structure reorganized the case management functions of the constituent tribunals. The Social Benefits Tribunal, the Child and Family Services Review Board, the Custody Review Board and the English and French Ontario Special Education Tribunals now share the case management function, while the Landlord and Tenant Board and Human Rights Tribunal of Ontario continue to administer their own systems. Further changes in this structure are expected as the cluster's final organization takes shape.

Strategic Planning

With these foundation pieces in place, the next step involved developing a strategic transformation plan. The Executive Chair, Associate Chairs and senior management team spent two days in October developing a shared understanding and discussing the components of the plan, along with examining their individual roles and responsibilities. Out of that work came a clear transformation objective: *To redefine/redesign previously distinct individual tribunals into a single, integrated administrative justice organization, with recognizable component parts based, at least in part, on the original tribunals.*

It was also agreed that the guiding principles of clustering and the internal organizational design of the cluster, would be:

- the needs of SJTO's users and the broader public
- the desire to enhance efficiency, subject matter effectiveness and expertise, and access to justice;
- the desire to provide a common and positive face of justice to the public

Governance and Accountability Documents

While this work was proceeding, SJTO also turned its attention to developing the policy documents required by the Tribunals Act and regulations. Under the direction of the Executive Chair, SJTO formed working groups of Members and staff to develop:

- A **Consultation Policy** to govern procedures for consulting with the public when SJTO is considering changes to its rules/policies, including consultation with stakeholders who would be affected by the changes.
- **Service Standards**, to provide common metrics for all the tribunals, although the precise standards may differ.
- A **Complaints Process** for making, reviewing and responding to complaints about the service provided by the SJTO and its constituent tribunals.
- An **Ethics Plan**, to submit to the Conflict of Interest Commissioner for approval.
- A **Member Accountability Framework**, to develop position descriptions for members, including the skills, knowledge, experience, other attributes and specific qualifications required of a person to be appointed as a member.

All of these documents were completed and submitted as required by the April 1, 2012, deadline.

French Language Services

SJTO tribunals provide services to the public in both official languages in accordance with the French Language Services Act (FLSA). Regional offices in areas designated by the FLSA have bilingual staff available.

Accessibility and Mental Health

One of SJTO's core values is a commitment to access to justice, diversity and inclusion, and as part of its efforts in this area, it has formed a Capacity, Mental Health and Access Working Group to build on initiatives developed by several of SJTO tribunals. Experience suggests that a significant number of those who appear before SJTO's constituent tribunals have mental health or capacity issues, and therefore may face barriers in their ability to participate effectively in our proceedings. While SJTO tribunals already have policies relating to accessibility and accommodation, and conduct professional development training relating to those issues, the working group will go beyond the traditional approaches and seek ways of further enhancing access.

Professional Development

To take advantage of the diversity inherent in SJTO's constituent tribunals, SJTO is planning its first Professional Development Institute for early in the new fiscal year. This will, for the first time, bring together all of SJTO's almost 200 full- and part-time Members in a symposium stretching over three days of training, capacity building, and improving the SJTO's substantive and process abilities. It will also provide opportunities to gain a richer understanding and a better appreciation of the diversity of the community that SJTO serves.

sjto.ca

CHILD AND FAMILY SERVICES REVIEW BOARD / CUSTODY REVIEW BOARD

Associate Chair's Message

Suzanne Gilbert, Associate Chair

Child and Family Services Review Board/Custody Review Board

I am pleased to present the 2011-2012 Annual Report of the Child and Family Services Review Board (CFSRB) and Custody Review Board (CRB). As anticipated, this year was one of change as we embarked on the major transformation brought about by the creation of Social Justice Tribunals Ontario. The highlight of this year is certainly the decision of the Ontario Court of Appeal in *The Children's Aid Society of Waterloo v. D.D. (2011 ONCA 441)* and the decision of the Supreme Court of Canada to deny the appeal of the Children's Aid Society of Waterloo. The Court of Appeal confirmed the Board's interpretation regarding its jurisdiction under section 68.1 of the *Child and Family Services Act (CFSA)* for service delivery complaints against children's aid societies.

The Board also analysed the overall situation regarding the access of children in care to their right to a review of their residential placement and started to discuss the accessibility of the Board for Aboriginal children and their families. These issues will continue to be discussed during the next fiscal year.

During the year, the Board had to deal with parties breaching the confidentiality of Board proceedings. To address this issue, the Board established standardized confidentiality orders at hearings and in its decisions.

The settlement facilitation program has proven again this year to be useful to the parties involved in complaints regarding services provided by children's aid societies. Settlement agreements were reached in 82 per cent of the files scheduled for settlement facilitation, which is the same as last year.

The Board provided training again this year for Board members, holding teleconferences on subjects including settlement facilitation and CRB case law review.

I want to thank all Board members and staff who continue to maintain the high quality in their work and continue to provide significant contributions to SJTO. I cannot conclude my message without mentioning the loss of our dear friend and colleague Greg Price, who passed away in September 2011. He was a tremendous support for his colleagues and me. He was professional, knowledgeable and always ready to help. He is missed and will be remembered.

Legislative Authority

The Child and Family Services Review Board

Under the *Child and Family Services Act (CFSA)*, the CFSRB is mandated to review:

- Residential placements of children in care pursuant to section 36
- A children's aid society decision to remove a Crown ward, where the child has resided continuously with the foster parent for two years or more, pursuant to section 61
- Certain client complaints related to children's aid societies pursuant to sections 68 and 68.1
- Emergency admission of a child to a secure treatment program pursuant to section 124
- A Director's decision to refuse to approve a proposed adoption placement, or to impose a term or condition on an approval, pursuant to section 142
- A decision of a children's aid society to refuse an application to adopt a particular child, or a decision of a society or licensee to remove a child from an adoption placement, pursuant to section 144.

Under the *Education Act*, the Board hears appeals of:

- School Board expulsion decisions pursuant to section 311.7.

Under the *Intercountry Adoption Act*, the Board reviews:

- A Director's refusal to approve a person as eligible and suitable to adopt for the purpose of an intercountry adoption, or the attachment of conditions to a Director's approval, pursuant to section 5
- A Director's refusal to approve a proposed intercountry adoption, or the attachment of conditions to a Director's approval, pursuant to section 6.

Custody Review Board

Under section 97(1) of the *Child and Family Services Act*, the Custody Review Board hears applications and makes recommendations to Provincial Directors who make decisions with respect to youth in custody regarding:

- A particular placement where a young person is being held or to which the young person has been transferred
- A Provincial Director's refusal to authorize the young person's temporary release or reintegration leave
- The young person's transfer from a place of open custody to a place of secure custody

Operational Highlights

Court of Appeal Decision

When the Ontario Court of Appeal issued its decision in *The Children's Aid Society of Waterloo v. D.D.*, the Board proceeded with files it had placed on hold pending the appeal. The Board adjusted its regular scheduling practice and managed to quickly schedule those files and bring most of them to completion. There were 60 applications at various stages of the hearing process on hold when the Court of Appeal for Ontario issued its decision. Of the 60 applications, 22 applications were closed either because they were withdrawn or the Board was unable to contact the applicant. The Board successfully completed the scheduling of 38 applications by September 2011.

CRB - Background Documents

In June 2011, the CRB started an initiative to improve the quality of the review process of new CRB applications. The Board now obtains supporting documentation following receipt of the application, including custody/detention documents, pre-sentence reports and/or the latest level of detention review. This practice will allow Board members to get accurate and more in-depth information for conducting the review and for reference in the Board's recommendation.

Statistics/Commentary

In the 2011-2012 fiscal year, the CFSRB received 300 applications and the CRB received 169 applications for a total of 469 applications, a slight decrease from the previous year. The following chart provides a summary of Boards' caseloads for the last three fiscal years:

Application Type	2011-2012	2010-2011	2009-2010
Section 61 of the CFSA - Removal of a Crown Ward	9	21	16
Section 68 of the CFSA - Complaints Against a Children's Aid Society	220	210	203
Section 144 of the CFSA - Refusal of Application to Adopt or Refusal to Approve a Proposed Adoption Placement	12	16	14
Section 311.7 of the Education Act - School Board Expulsion Appeals	10	13	9
Section 124 of the CFSA - Review of Emergency Secure Treatment Admission (ESTA)	40	39	30
Section 36 of the CFSA - Review of Residential Placement (ARRP)	9	6	3
Section 5 & 6 of the Intercountry Adoption Act - Intercountry Adoption Applications (Refusal to Adopt Outside of Canada)	0	0	0
Custody Review Board Applications	169	192	159
Total	469	497	434

Child and Family Services Review Board Applications

Section 61 of the CFSA - Removal of a Crown Ward

Section	2011-2012	2010-2011	2009-2010
Applications Received	9	21	16
Hearings	3	5	2
Hearing Days	23	20	3

Final Hearing Decisions Issued	3	2	1
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The Board dealt with two unusual issues in the context of section 61 hearings:

- In the first case, it heard a motion relating to mootness and a motion to state a case for contempt in a case involving foster parents seeking the return of their foster child. The Board ultimately dismissed the case for mootness after the society obtained a final restraining order preventing the foster parents from having contact with the child. The Board found that there was no point in going ahead with a case in which the applicants could not have the child returned to them because of the Court's final restraining order.
- In the second case, the society alleged that if the foster home had already been closed, the Board could not proceed to hear the application. The Board dismissed the argument and decided that it had jurisdiction because the application for review was filed on time and the legislation places no limits on the Board's authority to review a proposed removal in the face of a foster home closing. The decision determined that societies can not unilaterally take themselves outside of the scope of s. 61 by "closing" foster homes. The Board fulfils its legislated mandate by conducting the review and determining the action that is in the best interests of the child. The parties must then take the necessary steps to comply with the order.

Section 68 of the CFSA - Complaints Against a Children's Aid Society

Section 68	2011-2012	2010-2011	2009-2010
Applications Received	220	210	203
Hearings	29	13	37
Hearing Days	38	17	49
Written Review Decision	8	10	16
Final Hearing Decisions Issued	21	15	36
Applications Withdrawn	40	18	20

The number of applications withdrawn may be explained by the fact that some applicants whose files have been placed on hold because of the appeal in *The Children's Aid Society of Waterloo v. D.D. (2011 ONCA 441)* did not wish to proceed with their applications.

The Board also released a decision determining that grandparents who had approached a society to become the kin placement for their grandchildren were seeking a service from the society and were entitled to reasons under section 68.1 (4) 5 of the *Act* when the society refused their request.

Settlement Facilitation for Section 68 application

Settlement Facilitation for Section 68	2011-2012	2010-2011	2009-2010
Applications Scheduled for Settlement Facilitation	159	133	126
Applications Closed as Settled	131	102	55

The increase in the number of applications scheduled for a settlement facilitation conference is in part because of the scheduling of files put on hold waiting for the Court of Appeal decision. The settlement facilitation program continues to be a success considering the high level of settlements, which is again this year at 82 per cent. The Board trained four new members to do settlement facilitation.

Section 144 of the CFSA - Refusal of Application to Adopt or Refusal to Approve a Proposed Adoption Placement

Section 144	2011-2012	2010-2011	2009-2010
Applications Received	12	16	14
Hearings	6	6	9
Hearing Days	17	29	17
Final Hearing Decisions Issued	5	9	5

In one of its decisions, the Board analyzed the circumstances that must exist for it to be determined that a society had received an application to adopt. The society had placed a child for adoption with a family without informing the applicants that their application for adoption had been refused, and that they had the right to ask for a review of that decision. The Board decided that the child's placement was not valid, as the application to adopt was received by the society before it had placed the child.

Section 311.7 of the Education Act - School Board Expulsion Appeals

School Board Expulsion Appeals	2011-2012	2010-2011	2009-2010
Appeals Received	10	13	9
Hearings	5	3	3
Hearing Days	8	3	6
Final Hearing Decisions Issued	3	1	5

In one of its decisions, the Board decided that even if a child has not been formally identified as a special needs student, his or her special needs must be taken into consideration when analysing whether or not the pupil should be expelled.

Section 36 of the CFSA - Application for Residential Review Placement

Application for Residential Review Placement	2011-2012	2010-2011	2009-2010
Applications Received	9	6	3
Hearings	4	0	2
Final Hearing Decisions Issued	2	0	2

The Office of the Provincial Advocate for Children and Youth has started supporting children in their efforts to request a review of their placement to the Board, resulting in more applications this year.

The Board dealt with the issue of whether the child's placement was a youth justice placement or a child welfare placement. A youth justice placement cannot be reviewed by the Board. In one case, the Board found that the placement came under a youth justice order to live at the facility, while in another case, the Board found that the child's placement was a placement by a society and not by the youth court. The evidence in those cases revolved around the wording and intent of the Youth Court orders.

The Board also developed and used a comprehensive framework for reviewing residential placements under section 36 of the Act. The Board incorporated in its analysis the relevant factors from the best interests test as described in the CFSA and from the factors that a Residential Placement Advisory Committee must consider when it reviews a child's placement.

Section 124 of the CFSA - Review of Emergency Secure Treatment Admission (ESTA)

ESTA	2011-2012	2010-2011	2009-2010
Applications Received	40	39	30
Hearings	13	13	13
Final Decisions Issued	13	13	13
Applications Withdrawn	28	24	17

The majority of applications received for Emergency Secure Treatment Admission continued to be from children admitted to Youthdale Treatment Centres. The Board received three applications from children admitted to Syl Apps Youth Centre. There were no applications relating to admissions to Roberts/Smart Centre.

The Board continued to rule that it is the facility's burden of evidence to prove the conditions for the child's admission. It is for the facility to call the psychiatrist about the opinion evidence supporting the admission.

The Board has decided that to be fair to the child who has lost his or her freedom, the child needs to have the option of questioning the opinion leading to the admission in a secure treatment facility. Therefore, documents containing the psychiatrist's opinion are not admissible unless the psychiatrist is made available for cross-examination or the child consents.

Section 5 & 6 of the *Intercountry Adoption Act* - Intercountry Adoption Applications (Refusal to Adopt Outside of Canada)

Intercountry Adoption Applications	2011-2012	2010-2011	2009-2010
Applications Received	0	0	0

Custody Review Board Applications

Custody Review Board Applications	2011-2012	2010-2011	2009-2010

Applications Received	169	192	159
Hearings	0	1	0
Final Recommendations Issued	94	89	72

The Board continued to deal primarily with cases involving young persons wanting a recommendation that they be moved closer to home. Reasons for moves away from the home community included bed shortages and restructuring of facilities. Youth with significant mental health and learning needs continued to seek placements with additional supports. The Board's easier access to pre-sentence reports and other background documents has enhanced the Board's ability to make its needs-based recommendations.

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HUMAN RIGHTS TRIBUNAL OF ONTARIO

Associate Chair's Message

David A. Wright, Associate Chair
Human Rights Tribunal of Ontario

This annual report marks nearly four years since the HRTTO took on its new mandate of receiving and processing applications filed directly with it under the *Human Rights Code*. Following major changes to our process in mid-2010 and the appointment of new vice-chairs and members in 2011, the HRTTO made significant strides in reducing our active caseload. In 2011-12 we resolved more applications than were filed and dramatically reduced the number of cases waiting to be scheduled. By the end of the year, we were on track to achieve major reductions in the waiting time for mediations and hearings and overall case processing times in 2012-13.

This fiscal year also saw our work nearly completed on transition cases originally filed with the Ontario Human Rights Commission. This was achieved through the hard work of a dedicated group of staff and adjudicators, and this milestone allows us to focus almost exclusively on directly filed applications.

This year we continued the development of the rich body of substantive and procedural jurisprudence under the new *Human Rights Code*. I am proud of the quality of the decisions written by our adjudicators, which not only resolve the dispute between the parties but also often clarify the law and thereby avoid litigation in other circumstances.

Adjudication of cases on their merits is only part of the HRTTO's work. Mediations and mediation-adjudications conducted by Tribunal members resulted in the settlement of well over a thousand cases. Active triage when applications are filed and case management throughout the process allow us to tailor our procedures to particular cases, and constitute a considerable portion of the work of staff and adjudicators.

I commend our staff and adjudicators for their hard work in a particularly busy year and their ongoing dedication to serving the people of Ontario.

Legislative Authority

The HRTTO is established under the Ontario *Human Rights Code*. Since June 2008, all claims of discrimination under the *Code* are dealt with through applications filed directly with the HRTTO. The HRTTO's primary role is to

provide an expeditious and accessible process for resolving those applications through voluntary mediation or, where the dispute is not resolved through mediation, a hearing and an enforceable decision.

Operational Highlights

Caseload management

The HRTO made significant progress on reducing its active caseload. Through a number of measures, including a scheduling blitz, the HRTO was able to close 624 more cases than were opened in fiscal 2011-2012. This brought the number of open cases to 3,302 at fiscal year-end, approximately 400 of which were deferred pending the outcome of some other proceeding outside the HRTO. The number of cases waiting to be scheduled for mediation and hearings was also dramatically reduced during fiscal 2011-2012.

The HRTO also continued to work on the timeliness of its processes, consistent with principles of fairness and other core values. Of the cases closed in fiscal 2011-2012 where the application was accepted, 1,439 (55 per cent) were closed within one year. The average time from application acceptance to closure was 387 days, with a median of 324 days. However, a large number of files - 767 - were closed that did not reach the application acceptance stage because they were resolved on some preliminary basis, including the new Summary Hearing process. The HRTO currently does not have timeline measures for these 767 closures, but many of them were resolved within one year.

Transitional Applications and Commission Referred Complaints

June 2008 amendments to the Code established the new human rights system and included a mechanism for dealing with complaints still pending at the Ontario Human Rights Commission. For a period of one year, the complainant could bring the complaint to the HRTO by filing an application under section 53 of the Code. The HRTO received almost 2,000 such applications. By the end of this fiscal year, all but 85 had been resolved, with most of those cases nearing completion.

As well, the Commission continued to refer complaints to the HRTO until December 31, 2008. Most of these claims have been resolved. At the end of this fiscal year, there were only 16 active cases, some of which involve a number of related files involving similar issues.

Statistics/Commentary

The following statistics refer only to "New Applications" made under section 34 of the *Code*, not Transitional Applications or Commission Referred Complaints.

	2011-2012	2010-2011	2009-2010
Applications received	2,740	3,167	3,543
Cases reactivated	40	58	52
Cases closed	3,364	2,717	1,937
Active cases at year-end	3,302	3,886	3,378

Please note that the minor adjustments to the numbers reported in previous annual reports result from enhancement to the HRTO's electronic case management system that include automated reports.

A geographical breakdown of applications based on the applicant's postal code shows:

	2011-2012	2010-2011	2009-2010
Eastern (K)	11.0%	10.8%	11.4%
Central (L)	37.3%	36.2%	38.2%
Toronto (M)	25.5%	27.0%	24.2%
Western (N)	17.9%	16.3%	17.4%
Northern (P)	6.1%	5.9%	6.0%
Other	2.1%	3.9%	2.7%

The following chart shows the percentage of applications based on each of the five social areas covered by the Code. Note that while most applications only allege discrimination in respect of one social area, some are based on more than one, so the total exceeds 100 per cent by a small amount.

SOCIAL AREA	2011-2012	2010-2011	2009-2010
Employment	76.4%	76.9%	75.0%
Goods, Services and Facilities	21%	20.5%	20.1%
Housing	5.0%	5.6%	5.7%
Contracts	0.7%	1.8%	1.8%
Membership in a Vocation Ass'n	0.7%	1.4%	1.2%
No Social Area	1.2%	1.2%	2.1%

The following chart shows the percentage of applications in which each prohibited ground under the Code is raised. Because many applications claim discrimination based on more than one ground, the totals in the chart far exceed 100 per cent.

Ground	2011-2012	2010-2011	2009-2010
Disability	54.4%	53.0%	52.2%
Reprisal	25.5%	24.4%	25.2%
Sex, Pregnancy and Gender Identity	24.9%	23.7%	23.5%
Race	19.2%	21.6%	19.7%
Colour	13.5%	16.2%	13.9%
Age	13.6%	15.5%	13.7%

Ethnic Origin	15.5%	15.7%	13.7%
Place of Origin	12.6%	13.2%	12.3%
Family Status	8.4%	10.1%	9.7%
Ancestry	9.1%	10.6%	9.5%
Sexual Solicitation or Advances	5.2%	5.6%	9.3%
Creed	6.8%	6.4%	6.3%
Marital Status	7.8%	5.7%	5.9%
Sexual Orientation	4.0%	4.2%	4.0%
Association	2.6%	4.8%	3.9%
Citizenship	3.7%	4.6%	3.6%
Record of Offences	3.0%	2.9%	3.5%
Receipt of Public Assistance	1.0%	1.3%	1.4%
No grounds	2.6%	2.2%	3.0%

Mediation:

As reflected in last year's annual report, the HRTO adjusted its approach to mediation statistics in the last quarter of fiscal 2010-2011. Therefore, the following chart compares the last quarter of 2010-2011 with this fiscal year.

	2011-2012	2010-2011 (last quarter)
Mediations held	1,635	433
Settled	62%	60%
Applicant representation		
• Lawyer	27%	27%
• Paralegal	4%	6%
• HRLSC	11%	13%
• Other	4%	4%
• Self-represented	55%	50%
Respondents with a Representative		
• Lawyer	83%	77%
• Paralegal	1%	1%
• Other		

• Self-represented	2%	5%
	14%	17%

Hearings and Decisions:

Type of Decision	2011-2012	2010-2011	2009-2010
Final decision on the merits	95	104	75
Discrimination found	40	41	29
Discrimination not found	55	63	46
Dismissal on a preliminary basis*	786	562	301
Deferrals	229	233	147
Withdrawals**	3	38	212
Other procedural issues	355	570	931
Reconsideration	140	103	66
Breach of settlement decision	12	7	8
TOTAL DECISIONS	1,620	1,617	1,740

* This includes cases dismissed under the HRTO's new summary hearing procedure based on a finding that the application had "no reasonable prospect of success."

**The HRTO no longer prepares a decision for each withdrawal, and most withdrawals are now confirmed by letter.

sjto.ca/hrto

LANDLORD AND TENANT BOARD

Associate Chair's Message

Lilian Ma, Associate Chair Alternate Executive Chair

Landlord and Tenant Board Social Justice Tribunals Ontario

This has been a busy year at the Board as we focused our efforts on increasing the efficiency of the Board's scheduling model for hearings. We have made changes to the way we schedule those application types that make up the bulk of the LTB's workload, the landlord's application to terminate the tenancy and evict the tenant because of rent arrears (L1) and to collect rent arrears (L9). The changes to the scheduling model have freed more time to hear contested/complex applications that generally take longer to adjudicate, and they have improved our time to hearing for all applications. For more information, please see the Operational Highlights section of this report.

I am grateful for the input from Members and staff as well as the Board's regular "users" at three focus groups held in London, Toronto and Ottawa. The ongoing dialogue between the Board and its Stakeholder Advisory Committee* also ensures that the views of both landlord and tenant groups are given the necessary attention in the development of procedures, forms, Rules of Practice and Interpretation Guidelines.

The Board's Rules and Guidelines Committee continues to play a valuable role in amending existing rules of practice and interpretation guidelines, and developing new ones where the need is identified by Board Members, staff and stakeholders. The Board's Rules and Guidelines promote consistency in the application of the legislation and the Board's processes.

I also wish to thank the Board Members and staff who work together as a team in delivering services to tenants and landlords. In addition to their ongoing commitment to the effective and efficient operation of the Board, they also provided valuable input into the Board's new scheduling model. My appreciation and thanks go to the Board's Vice Chairs, the Director, Case Management/Registrar, Regional Managers and Managers of Customer Service, as well as the SJTO Legal Services and Program Development Unit. They all play an important role in the management, training and policy work they do for the Board.

I look forward to the coming year as the Board undertakes new initiatives to implement legislative changes with a view to facilitating access to justice for Ontario landlords and tenants.

* Representatives from the Advocacy Centre for Tenants Ontario (ACTO) and the Federation of Rental-Housing Providers of Ontario (FRPO) participate in the Stakeholder Advisory Committee.

Legislative Authority

The Landlord and Tenant Board (LTB) draws its legislative authority from the *Residential Tenancies Act, 2006* (the RTA or the Act), which in section 1 sets out the following purposes for the Board:

- provide protection for residential tenants from unlawful rent increases and unlawful evictions;
- establish a framework for the regulation of residential rent;
- balance the rights and responsibilities of residential landlords and tenants; and,
- provide for the adjudication of disputes and for other processes to informally resolve disputes.

Dual Mandate

Resolving disputes

- Adjudication

In the Act, section 168(2) provides that the Board has jurisdiction to determine all applications under the RTA, while section 174 provides the Board with the authority to hear and determine all questions of law and fact with respect to all matters within its jurisdiction under the Act. Pursuant to section 183 of the Act, the Board strives to provide the most expeditious method of determining the questions that arise in a proceeding and to provide parties an adequate opportunity to know the issues and to be heard on the matter.

- Mediation

Section 194 of the Act allows the Board to mediate disputes, if both parties agree to try this approach. Board Mediators are available to meet with parties to try to help them reach a workable agreement that is acceptable to both sides.

Providing information

The LTB, under section 177 of the Act, is required to give information to landlords and tenants about their rights and obligations. It fulfills this mandate through various means:

- A virtual Call Centre handles customer inquiries, in both English and French, through toll free lines. Customer Service Officers are available during regular business hours. An automated telephone service answers frequently-asked questions 24 hours a day, seven days a week. This year, the Board responded to over 500,000 telephone calls.
- Eight offices that offer in-person service to clients. At those offices, landlords and tenants can obtain information from one of the Board's Customer Service Officers about their rights and obligations under the law, as well as file applications, attend hearings and participate in mediation.
- A bilingual website, sjto.ca/ltb, which received approximately 1.2 million hits each month over the past fiscal year. The website provides access to all Board forms, brochures, Rules of Practice, Interpretation Guidelines, the Board's complaint procedures and its Policy on Accessibility and Human Rights.

Amendments to the RTA

Effective January 1, 2012, the RTA was amended by Bill 140 as part of the Long Term Affordable Housing Strategy of the Ministry of Housing. Section 206.1 was added to the RTA, permitting the Board to designate staff to hold a hearing and make an order related to an uncontested application or an application specified in the Board's Rules of Practice. In the coming year the Board, in consultation with its stakeholders, will consider how implementing this change might enhance the effectiveness and efficiency of the Board's service to its clients. On January 1, 2013, we anticipate the implementation of other Bill 140 amendments, such as section 189, which will require the Board to serve the notice of hearing and application to the respondent unless the Board, in the circumstances set out in its Rules, orders the applicant to do so.

Operational Highlights

The Landlord and Tenant Board (LTB) is a high-volume tribunal with a mandate to provide the most expeditious method of determining the questions that arise in a proceeding and to provide parties an adequate opportunity to know the issues and be heard on the matter (see section 183 of the *Residential Tenancies Act, 2006*, (the RTA)).

During the 2011-2012 fiscal year, the Board focused its efforts on improving the way it schedules landlord applications to terminate a tenancy and evict based on non-payment of rent and to collect rent arrears, as improvements in this area would have the greatest impact.

L1/L9 scheduling

In November 2011, the LTB implemented a new scheduling model to optimize the use of hearing time and resources with a view to improving service to the landlords and tenants of Ontario. The new model consists of scheduling L1 and L9 applications on specific days of the week in each regional office. This change has not been implemented in off-site hearing locations as the number of L1/L9 applications does not generally warrant such an approach. Hearing blocks still have a mix of application types to ensure equal access for landlord and tenant applications in off-site locations.

Grouping L1 and L9 applications together in one hearing block has resulted in more focussed and effective hearings and has led to reduced time to hearing for all application types, including tenant applications. The Board is also able to schedule adjourned matters more quickly. Feedback from the Board's stakeholders about these changes has been positive.

L1/L9 update form

As part of the scheduling changes the Board introduced during this fiscal year, landlords or their representatives are now asked to update the status of the L1 or L9 application in writing, as of the hearing date, and to submit this update to the presiding Member.

The Board has developed a form for landlords and their representatives to use to update the information. The *L1/L9 - Information Update as of Hearing Day* form is available at all Board offices and in the Other Forms

section of the website.

Rules and Guidelines changes

Effective January 6, 2012, the Board revised a number of its Rules of Practice and Interpretation Guidelines. As well, one new Rule and two new Guidelines were released. These new documents are Rule 32, "Legal Representatives Acting as Advocates and Witnesses in the Same Proceeding"; Interpretation Guideline 20, "Parties, Agents and Representatives"; and Interpretation Guideline 21, "Landlords, Tenants, Occupants and Residential Tenancies." All of the Board's Rules and Guidelines are available on its website.

Public education videos

The Board has developed five public education videos to make information about the law and the Board's processes more accessible. These videos are posted on the Board's website (with voice over and captioning). Captioned versions are also played in the waiting areas of the Board's offices.

Statistics/Commentary

Applications Filed

From April 1, 2011, to March 31, 2012, the Board received 81,084 applications. This is an increase of 3,690 applications, or approximately five per cent, compared to the 2010-2011 caseload.

Landlord vs Tenant Applications

The ratio of landlord to tenant applications has remained relatively constant since 1998 when the resolution of landlord-tenant disputes was transferred from the provincial court system to an adjudicative tribunal. This past year was no exception, with 91 per cent of applications filed by landlords and 9 per cent filed by tenants.

Applications by Type

Applications for termination of tenancy and eviction continue to represent the bulk of the Board's workload. Of the total applications received by the Board, 72.2 per cent were for termination of tenancy because of arrears of rent. The following table shows the number of each application type filed by landlords for the 2011-2012 fiscal year and the two previous years. The number in brackets shows the percentage of the total applications filed by landlords.

Landlord Applications by Type

Case type	Application Description	2011-2012	2010-2011	2009-2010
A1	Determine Whether the Act Applies	50 (0.07%)	48 (0.07%)	49 (0.07%)
A2	Sublet or Assignment	234 (0.32%)	199 (0.28%)	153 (0.21%)
A3	Combined Application (usually includes an L1)	3,736 (5.05%)	3,066 (4.34%)	2,796 (3.92%)
A4	Vary Rent Reduction Amount	106 (0.14%)	182 (0.26%)	275 (0.39%)
L1	Terminate & Evict for Non-Payment of Rent	54,847 (74.16%)	53,182 (75.29%)	54,109 (75.80%)

L2	Terminate for Other Reasons & Evict	6,867 (9.28%)	6,158 (8.72%)	5,628 (7.88%)
L3	Termination - Tenant Gave Notice or Agreed	1,263 (1.71%)	1,075 (1.52%)	991 (1.39%)
L4	Terminate the Tenancy - Failed Settlement	4,905 (6.63%)	4,805 (6.80%)	5,301 (7.43%)
L5	Rent Increase Above the Guideline	252 (0.34%)	391 (0.55%)	294 (0.41%)
L6	Review of Provincial Work Order	13 (0.02%)	7 (0.01%)	12(0.02%)
L7	Transfer Tenant to Care Home	1 (0.00%)	1 (0.00%)	3 (0.00%)
L8	Tenant Changed Locks	21 (0.03%)	26 (0.04%)	22 (0.03%)
L9	Application to Collect Rent	1,664 (2.25%)	1,499 (2.12%)	1,754 (2.46%)
Total		73,959	70,639	71,387

The following table shows the number of each application type filed by tenants for the 2011-2012 fiscal year and the two previous years. The number in brackets shows the percentage of the total applications filed by tenants.

Tenant Applications By Type

Case type	Application Description	2011-2012	2010-2011	2009-2010
A1	Determine Whether the Act Applies	36 (0.51%)	30 (0.44%)	33 (0.49%)
A2	Sublet or Assignment	57 (0.80%)	49 (0.73%)	43 (0.64%)
A3	Combined Application	1,435 (20.14%)	1,224 (18.12%)	1,141 (17.07%)
A4	Vary Rent Reduction Amount	1 (0.01%)	0 (0.00%)	2 (0.03%)
T1	Rent Rebate (e.g. illegal rent)	578 (8.11%)	520 (7.70%)	574 (8.59%)
T2	Tenant Rights	3,548 (49.80%)	3,587 (53.10%)	3,517 (52.61%)
T3	Rent Reduction	65 (0.91%)	43 (0.64%)	43 (0.64%)
T4	Failed Rent Increase Above Guideline	1 (0.01%)	1 (0.01%)	2 (0.03%)
T5	Bad Faith Notice of	139 (1.95%)	128 (1.89%)	115 (1.72%)

	Termination			
T6	Maintenance	1,264 (17.74%)	1,171 (17.34%)	1,215 (18.18%)
T7	Suite Meters	1 (0.01%)	2 (0.03%)	N/A
Total		7,125	6,755	6,685

Pending TPA Applications

At the beginning of the 2011-2012 fiscal year, only three applications that had been filed under the *Tenant Protection Act, 1997* (the TPA), were still active. The TPA was the legislation in effect prior to the implementation of the RTA in 2007. The Board is responsible for resolving these applications in addition to its RTA workload. Between April 1, 2011, and March 31, 2012, the Board resolved two TPA applications, leaving one TPA application awaiting resolution.

Application Resolution

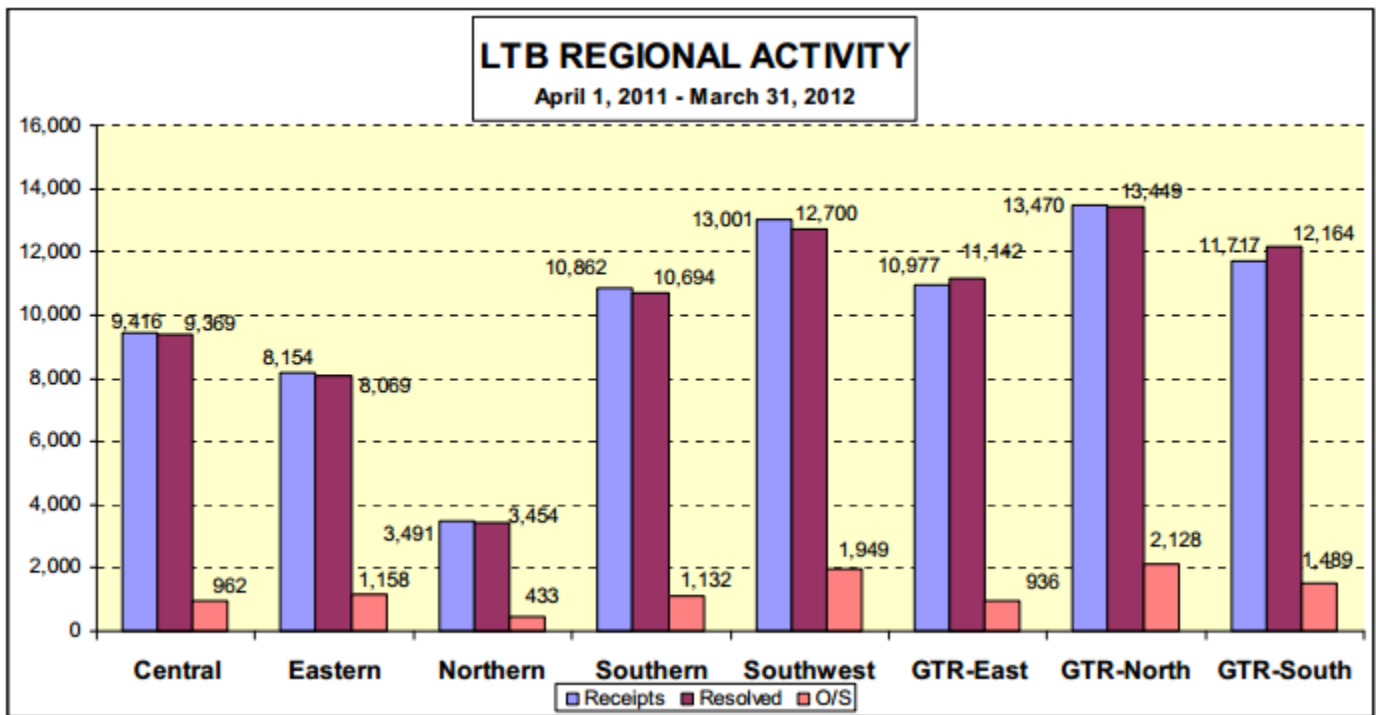
For the fiscal year 2011-2012, the Board received 81,084 applications and resolved 81,032 applications. Some applications may generate more than one resolution because of the re-opening and review processes. As of March 31, 2012, the number of unresolved RTA applications is 10,187. This number represents approximately seven weeks' work at the Board, which is the workload appropriate to warrant smooth and continuous operation for the Board.

The following table shows the total number of applications received, resolved and outstanding at the end of the fiscal year, for 2011-2012 and the two previous years.

Application Receipts and Resolutions

	2011-2012	2010-2011	2009-2010
Applications received	81,084	77,394	78,072
Applications resolved	81,032	75,420	82,464
Outstanding at year end	10,187	10,140	8,166

The following chart shows how applications and resolutions are relatively constant across regions and also illustrates the regional distribution of applications filed with the Board.



Review and Appeal Statistics

A party to an application may ask for a review of a Board order if he or she believes that the order contains a serious error or that a serious error occurred in the proceedings, including where a party was not reasonably able to participate in the proceeding. The authority for requesting a review comes from section 21.2 of the *Statutory Powers Procedure Act*, subsection 209(2) of the RTA, and Rule 29 of the Board's Rules of Practice.

When a review request is filed with the Board, a Member conducts a preliminary review, without holding a hearing, to determine whether or not the order may contain a serious error or a serious error may have occurred in the proceedings. When the Member determines that there is a possibility of a serious error affecting the result of the case, a review hearing will be held. Otherwise, the Member will dismiss the request for review.

Over the 2011-2012 fiscal year, the Board received 2,200 requests for review, 2.7 per cent of the total number of applications received. Of the review requests received, 1,028 (1.26 per cent) were sent to hearing.

Section 210 of the RTA also provides that any person affected by a Board order may appeal the order to the Divisional Court within 30 days after being given the order, but only on a question of law. Over the 2011-2012 fiscal year, the Board received 134 Notices of Appeal of Board orders. This number represents 0.17 per cent of the total number of applications resolved by the Board.

Average Processing Times

The Board tracks the length of time from the date an application is filed to the initial hearing date that is scheduled, and the length of time from the final hearing date to the date the order is issued. While most cases are resolved during the initially scheduled hearing, some require more than one hearing appearance. A number of factors, such as the availability of parties or their representatives, can affect the length of time between the initial hearing date and the final hearing date.

The processing times generally correspond to the complexity of the application types. On average for the 2011-2012 fiscal year, hearings of L1 applications (to end the tenancy and evict the tenant for rent arrears) were scheduled within 25 business days of the date the applications were filed, and the order issued within four business days of the final hearing. L5 applications filed by landlords (for above-guideline rent increases) generally involve the lengthiest processes and as a result tend to be heard 145 to 155 business days after the application was filed, and have an order issued within 15 business days after the hearing. T2 and T6 (tenant

rights and maintenance) applications, which tend to be more complex, were typically heard within 25 business days of their filing date, and the order issued within eight business days of the final hearing.

Mediation

The Landlord and Tenant Board employs 21 mediators throughout the province to provide mediation services where both parties involved in an application are interested in mediating a resolution of the issues in dispute. In the 2011-2012 fiscal year, approximately 38 per cent of all applications where both parties showed up at the hearing were successfully resolved through mediated agreements and/or resulted in consent orders.

sjto.ca/ltb

ONTARIO SPECIAL EDUCATION TRIBUNALS

Associate Chair's Messages

Céline T. Allard, Associate Chair

Ontario Special Education (French) Tribunal

On behalf of the French and English Ontario Special Education Tribunals, I am pleased to provide the following report on the work of both tribunals.

One of the unique features of the 1980 *Education Amendment Act*, which guaranteed universal access to public education for all students, "exceptionality notwithstanding," was that it provided parents with the right to appeal the placement of exceptional students without having to go to court. The right of appeal to an independent adjudicative body, whose members have a high level of expertise in special education legislation and the ability to determine what is in the best interest of students with exceptionalities regarding programs, services and accommodation in an educational setting, continues to be an integral part of Ontario's unique approach to providing natural justice and due process to these students, their families and the education system.

Adjudicating these complex cases requires extensive knowledge, sensitivity and understanding of exceptional children and the education system in relation to the legal framework, as well as knowledge of teaching and learning strategies. Expert witnesses often appear before the Tribunal and give opinions on key facts relating to a broad array of exceptionalities. The expertise of the Tribunal in these areas is evident in the background of the appointees and has been recognized and acknowledged by all levels of courts.

Geographical representation across Ontario is also important when members are appointed. Hearing panels are always made up of three members, and hearings are held in a location that is convenient for both parties.

Special education is a constantly evolving field. While legislation may remain the same, there are many new research findings that inform the identification of exceptionalities and the determination of what is in the best interest of an identified exceptional student. OSET members must ensure that they are well-informed about such matters, since their mandate is more complex than the simple application of the statute. Therefore, they regularly participate in ongoing professional development activities related to their role as adjudicators and work independently as well as collectively to maintain their level of special education expertise.

As neutral adjudicators, and experts in special education, OSET members must always strive to reach a decision consistent with the best interests of the student based on the facts and evidence presented. I would like to thank all members of both tribunals for their continuing service in the interests of Ontario's exceptional students.

Legislative Authority

The legislative mandate of the Ontario Special Education Tribunals (OSET) is found in section 57 of the *Education Act*, R.S.O. 1990, c. E. 2. Their primary role is to adjudicate appeals initiated by parents regarding identification and/or placement decisions made by school boards with respect to students with special needs (exceptional pupils), and to make decisions that are in the best interest of these pupils.

The Ontario Special Education (English) Tribunal hears appeals for students enrolled in the 60 English-language school boards, both public and Roman Catholic. Le Tribunal de l'enfance en difficulté de l'Ontario (français) hears appeals for students enrolled in 12 French-language school boards, both public and Roman Catholic.

The fact that OSET is an appeal tribunal sets it apart from many other administrative tribunals, to which applicants may apply directly. OSET appellants must first have satisfied the prerequisites set out in the *Education Act* and its *Regulations*, before they are legally entitled to appeal.

Section 57(4) of the *Education Act*, allows OSET to dismiss an appeal, grant an appeal or make any other orders it considers necessary with respect to the identification and placement of the child. An OSET hearing typically involves lay and expert evidence presented by both parties, and OSET panels do not necessarily choose either the school board's or the parents' preferred option, but rather make their own determination based on the student's best interests.

The Tribunals' decisions are final and binding on both parties. Final decisions with reasons are always rendered within 90 days of the end of the hearing process. This is to reduce any further delay for the student, who must be provided access to the most appropriate and enabling educational placement as promptly as possible. Interim decisions are issued only if the timing of the school year makes this essential in the best interest of the student.

Another factor that differentiates OSET's decisions from some other tribunal decisions is that the parties (the parents and boards) continue to have a relationship after the dispute is resolved. Parents do not have an easy option to move their child from the local school administered by the local board to another school in another jurisdiction.

OSET offers mediation to its appellants by its trained members. Mediation is frequently successful in resolving the dispute, without the parents having to go on to a hearing on the merits of the case. Mediation also assists with facilitating future co-operation between the parties. By offering mediation support to the parties in advance of the appeal hearing on the merits, the Tribunal further supports the goal of encouraging dialogue and dispute resolution between the parties.

Operational Highlights

Adjudication

The current fiscal year opened with four cases on the register of the English Tribunal, and one additional appeal was initiated during the year. Of these, one appeal was withdrawn when the parents realized it was not a special education matter, one appeal was resolved through mediation, and two were closed after the Tribunal issued written decisions on the merits of the cases. At fiscal year-end, OSET had one open case.

There were no appeals filed, and no open cases, with the French Tribunal.

Supporting OSETs adjudicative activities and member readiness

To ensure that OSET is accessible to parents and efficient and effective in its practices, it must be compliant with the relevant legislation, provide resources that support and clarify the appeal process, and ensure that the public is aware of the process and the rights of exceptional students and their families. Administrative justice, as delivered by OSET to Ontario's exceptional students and their families, must be accessible, accountable, independent and transparent in its procedures.

During the 2011-2012 fiscal years, OSET undertook a review of its resource documents that directly and indirectly support the adjudicative process. The following documents were revised and updated and are available on the SJTO website.

- Rules of Procedure
- *Practice Directions* on the following topics:
 - Consent Orders
 - Mediation

The website includes a detailed document, *Information for Parties*, which sets out the process that parties need to follow when appealing to OSET. This document has been revised during 2011/12, to provide more information and guarantee greater accessibility to parties before OSET.

All OSET documents are available in both English and French. This bilingual approach and the assurance that families whose children attend French language schools run by French language school boards have the right to appeal to a French language Tribunal is mandated in OSET's original Order-In-Council.

In accordance with the previous year's Business Plan, during 2011-12 OSET held one all-members meeting by teleconference in November 2011. Individual members also attended workshops organized by the Ministry of Education and the Society of Ontario Adjudicators and Regulators. In accordance with the OSET's accountability practices, all members are provided with written reports following conferences, workshops and training programs.

Statistics/Commentary

	2011-2012	2010-2011	2009-2010
Cases on Register as of April 1	4	5	2
New Cases	1	2	6
Total Cases in year	5	7	8
Closed without a hearing on the merits	0	0	0
Withdrawn by parent	1	1	1
Consent Orders	0		0
Written Decision on merits	2	2	0
Resolved through mediation	1	0	2
Resolved in year	4	3	3
Cases on Register as of March 31*	1	4	5

* Open cases include cases awaiting a hearing and cases where a decision has been issued, but the Tribunal remained seized of the case.

SOCIAL BENEFITS TRIBUNAL

Associate Chair's Messages

Gary Yee, Associate Chair Alternate Executive Chair

Social Benefits Tribunal Social Justice Tribunals Ontario

The past fiscal year has been one of both consolidation and change for the Social Benefits Tribunal (SBT). We built on the excellent progress we had made in a number of areas, particularly the increased predictability of our scheduling, and we continued the efficient integration of our operations within Social Justice Tribunals Ontario (SJTO).

I am proud of the work that the members and staff do every day. As a Tribunal in the social justice area, we share a common bond that emerges from our concern for fairness and accessibility, and that is reinforced by our daily interactions with the persons who are so profoundly affected by our conduct and our decisions.

The procedural changes we had implemented were reflected in a revised Practice Direction 4 on Rescheduling of Hearings and Adjournments, effective December 1, 2011. The SBT's Consultative Committee reviewed a draft of the Practice Direction, and we thank the stakeholders for their contributions. The SBT appreciates the constructive and cooperative relationship it continues to have with the representatives of the appellants and the respondents.

The SBT is striving to be more accountable by making its decisions publicly available, while of course protecting the privacy of the appellants. We started the process to have our decisions available on the website of the Canadian Legal Information Institute - www.canlii.org. The public accessibility of a Tribunal's decisions is essential to promoting both the accountability and the predictability of the Tribunal.

In the coming year, the Social Benefits Tribunal faces significant challenges because of a sharp increase in incoming appeals that began in the last half of the fiscal year. In meeting this challenge, we will build on the solid foundation we already have in place, which includes the strong working relationships with our stakeholders, and we will draw on the benefits of being part of a large clustered organization. We will never lose sight of our goal to excel in our core work of providing fair and accessible dispute resolution.

Legislative Authority

The Social Benefits Tribunal (SBT) was established in 1998 under Part IV of the *Ontario Works Act, 1997*. Appeals are heard under that Act and the *Ontario Disability Support Program Act, 1997*. The SBT is an independent Tribunal that considers appeals by applicants who have been refused social assistance and recipients of social assistance who disagree with a decision that affects the amount of or their eligibility for social assistance. Members are appointed by Order-in-Council, and supported by legal counsel and administrative staff. The Tribunal's head office is in Toronto, with regional offices in London, Ottawa and Hamilton.

The SBT conducts hearings throughout Ontario. Because of the sensitive personal information involved in these cases, the legislation requires that all hearings must be held in private. Most hearings are conducted by a panel consisting of one member. The parties to the appeal are the appellant (the person who is appealing the decision of the Ontario Disability Support Program (ODSP) or Ontario Works (OW) office) and the respondent (the Director of the ODSP or the municipal administrator of OW).

Most of the appeals before the SBT are about whether the appellant meets the definition of a person with a disability under the *Ontario Disability Support Program Act*. Other appeals are about many different issues - examples include whether the appellant is meeting all the requirements to look for work under the *Ontario Works Act*, or whether the appellant reported income or other information that is required by law to be reported. The SBT also considers issues regarding human rights as part of its mandate.

Operational Highlights

Scheduling

The SBT built on the successful changes to its scheduling practices from the 2010- 2011 fiscal year, which saw a 37 per cent decrease in the number of hearings that were rescheduled. Much of this success could be attributed to working with the stakeholders to establish practical and predictable time frames for the first hearing date. In 2011-2012, there was another decrease, with 400 fewer rescheduled hearings, a drop of almost 12 per cent from the previous year. There were also fewer adjournment requests by the parties. The SBT changed its approach to such requests by working with the stakeholders to clearly categorize some requests as matters that could be dealt with much more efficiently as an administrative rescheduling, rather than seeking submissions from both parties.

The changes also led the SBT to review and revise its Practice Direction 4 on Rescheduling of Hearings and Adjournments. Many of the revisions reflected the changes that the SBT had already made, and the revised Practice Direction was made effective on December 1, 2011, following internal and external consultations.

The SBT revised its scheduling manual for stakeholders to assure consistency in scheduling. This document contains step by step descriptions of the SBT's scheduling practices, and is available on the SJTO website.

The SBT continued to schedule some hearings to be conducted by telephone where appropriate or where requested by a party, to save time and travelling. The SBT also held its first videoconference hearing. The appellant and the interpreter attended at a site in Northern Ontario. The member and the respondent were in Toronto, using the advanced technology at the hearing site used by the Human Rights Tribunal of Ontario.

Early Resolution Program

The Early Resolution Program (ERP) continued successfully during this fiscal year. SBT conducted approximately 300 Early Resolution sessions. The ERP process usually involves a telephone call between the two parties and the SBT's Appeal Resolution Officer (ARO), who acts as a facilitator to discuss possible ways to resolve the appeal without the need for a full hearing. The SBT already has a Practice Direction for the ERP, as well as a Practice Tips document, which are available for the public on our website.

Ongoing training was provided to staff to keep their conflict resolution skills up-to-date. SJTO Tribunals will continue working together to share their collective expertise and resources in this area.

This year, the SBT started scheduling Early Resolution sessions to discuss Interim Assistance matters, before granting or denying the assistance. Both parties have the opportunity to address the eligibility for Interim Assistance and to discuss the matter under appeal to obtain a resolution, when possible.

Adjudication Strategies - Human Rights Cases

The Social Benefits Tribunal has continued to adopt a coordinated and strategic approach to its many appeals that involve Human Rights Code issues. The SBT developed an adjudication strategy for special diet appeals because so many appellants submitted that the legislation concerning special diets contravened the Ontario Human Rights Code. Rather than simply hearing each matter on a case by case basis, it is more efficient to categorize the cases and bear in mind the work that was also being done in this area by the Human Rights Tribunal of Ontario. The SBT is continuing to implement its adjudication strategy on special diet appeals and to work proactively with parties to handle these files in as efficient a manner as possible while maintaining fairness.

To this end, in July 2011, the SBT sent requests in 622 special diet files to appellants and legal representatives asking them to send in a status report on their appeals and received responses in 487 cases, which is greater than 75 per cent. In 272 files, or over 40 per cent of the total, SBT received responses that the appellants wished

to proceed with their files at the present time. The SBT has started to schedule those appeals; some are suitable for early resolution sessions and some will be scheduled for a hearing.

Professional Development

Member training occurred throughout the year in a series of monthly scheduled teleconference sessions on a broad range of procedural and substantive topics, including reviews of new relevant case law and changes to law and practices.

Communication and Stakeholder Engagement

The Social Benefits Tribunal continued its commitment to communicate effectively with its stakeholders, which is essential to being an accountable, predictable and proactive Tribunal. The SBT sent out regular communiqués to its e-mail list and also posted these updates to its website.

During this fiscal year, the SBT held two meetings of the SBT Consultative Committee that was formed in June 2010. The SBT consulted the Committee in the review and revision of Practice Direction 4 - Rescheduling of Hearings and Adjournments. The committee membership includes both senior and operational level representatives from the Social Benefits Tribunal; Ministry of Community and Social Services; municipal Ontario Works offices; and legal clinic representatives of appellants.

Statistics/Commentary

For additional statistical information, please refer to the SJTO website.

In the fiscal year 2011-2012, the SBT received 13,435 appeals - a significant increase of over 10 per cent (1,276 appeals) compared to the previous fiscal year. The increase came at the end of the fiscal year, and this trend is expected to continue into 2012-2013. The SBT completed 12,816 appeals, which was an increase of over 400 from the previous year, but the SBT's pending inventory still increased by over 800 cases. The overall average case processing time increased slightly from 8.7 months to 9.2 months.

Table 1 - Summary

	2011-2012	2010-2011	2009-2010
Intake	13,435	12,159	11,780
Completed	12,816	12,388	12,565
Pending	9,479	8,631	8,860
Case Processing Time (months)	9.2	8.7	9.8

Table 2 - Appeals Completed With or Without a Hearing

	2011-2012	2010-2011	2009-2010
Completed Without a Hearing*	4,940 (39%)	4,824 (39%)	4,478 (36%)
Completed With a Hearing**	7,876 (61%)	7,564 (61%)	8,062 (64%)

* Completed without a hearing includes the following: appeal resolved before a hearing due to respondent's consent or appellant's withdrawal (e.g. - after early resolution process), reconsideration request not granted, no contact from appellant, no jurisdiction, other administrative reasons.

** Completed with a hearing includes decisions released following a reconsideration hearing.

Table 3 - Appeals by Program

	2011-2012	2010-2011	2009-2010
ODSP	12,329 (92%)	10,801 (89%)	10,401 (88%)
OW	1,106 (8%)	1,358 (11%)	1,379 (12%)
Total	13,435	12,159	11,780

Table 4 - ODSP Appeals by Program and First Level Decision

	2011-2012	2010-2011	2009-2010
Refusal	11,163 (91%)	9,694 (90%)	9,316 (89%)
Cancellation & Suspension	321 (2%)	325 (3%)	271 (3%)
Amount & Reduction	736 (6%)	676 (6%)	718 (7%)
Other	109 (1%)	106 (1%)	96 (1%)
Total	12,329	10,801	10,401

Table 5 - OW Appeals by Program and First Level Decision

OW	2011-2012	2010-2011	2009-2010
Refusal	336 (30%)	435 (32%)	385 (28%)
Cancellation & Suspension	363 (33%)	464 (34%)	511 (37%)
Amount & Reduction	387 (35%)	439 (32%)	467 (34%)
Other	20 (2%)	20 (2%)	16 (1%)
Total	1,106	1,358	1,379

Table 6 - Tribunal Decisions by Outcome

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ODSP	2011-2012	2010-2011	2009-2010
Granted	3,600 (50%)	3,253 (48%)	3,662 (51%)
Denied	2,172 (30%)	2,052 (30%)	2,225 (31%)
Denied in Absentia*	910 (12%)	904 (13%)	897 (12%)
Other**	550 (8%)	535 (8%)	442 (6%)
Total	7,232	6,744	7,226

OW	2011-2012	2010-2011	2009-2010
Granted	84 (13%)	120 (15%)	162 (19%)
Denied	243 (38%)	310 (38%)	328 (38%)
Denied in Absentia*	197 (30%)	257 (31%)	241 (29%)
Other**	120 (19%)	130 (15%)	129 (12%)
Total	644	817	860

* Cases denied in absentia - appellant was not present for the hearing.

** Other decisions include the following: consent order, no appeal before the Tribunal, appeal out of time, no jurisdiction, matter resolved or withdrawn, or cases referred back to the Director or Administrator to reconsider the original decision in accordance with the directions given by the Tribunal.

sjto.ca/sbt

SJTO MEMBERS* **(As of March 31, 2012)**

* Includes full-time and part-time Order-in-Council appointments

SJTO Executive Chair and Alternatives

Adjudicator	First Appointed	Term Ends
Michael Gottheil (Executive Chair)*	March 2011	March 2016
Lilian Ma (Alternate Executive Chair)*	March 2011	March 2016
Gary Yee (Alternate Executive Chair)*	March 2011	March 2016

* In this and following sections, indicates member is cross-appointed to other tribunals

Child and Family Services Review Board / Custody Review Board

Adjudicator	First Appointed	Term Ends
Keith Brennenstuhl*	June 2009	May 2014
Kevin W. Brothers	November 2010	November 2012
Donald Butler	December 2006	December 2012
Celia Denov	February 2007	February 2017
Denyse Diaz*	October 2006	October 2012
Patrick R. Doran*	May 2007	May 2012
Judy Finlay	January 2011	January 2013
Suzanne Gilbert (Associate Chair)*	October 2006	October 2011
John Gates	October 2005	October 2013
Heather Gibbs	July 2007	July 2012
Gail Gonda	May 2007	May 2012
Aida Graff	June 2007	June 2012
Andrea Himel	November 2010	November 2012
Heather Hunter	May 2008	May 2013
Lorna King	April 2006	April 2014
Alina Lazor	May 2008	May 2013
Richard Linley	December 2006	December 2016
Richard Meen	February 2011	February 2013
Michele O'Connor	November 2010	November 2012
Nycole Roy	May 2007	May 2012
Frances Sanderson	December 2006	December 2016
Ruth Ann Schedlich (Vice-Chair)	August 2001	October 2012
Sheena Scott (Vice-Chair)	May 2008	May 2012
John F. Spekkens	November 2010	November 2012

Wendell White	March 1999	September 2012
Mary Wong	May 2007	May 2012

Human Rights Tribunal of Ontario

Adjudicator	First Appointed	Term Ends
Judith Allen	January 2011	January 2013
Ian B. Anderson	October 2005	October 2012
Kenneth Bhattacharjee	September 2008	September 2013
Catherine Bickley	January 2011	January 2013
Keith Brennenstuhl*	September 2007	September 2012
Ena Chadha	September 2007	September 2012
Kevin Cleghorn	January 2011	January 2013
Brian Cook	September 2008	September 2013
Genevieve Debane	June 2011	June 2013
Andrew Diamond	August 2008	August 2013
Denyse Diaz*	January 2011	January 2013
Maureen Doyle	February 2011	February 2013
Brian Eyolfson	August 2007	August 2012
Michelle Flaherty	October 2008	October 2013
Mark Handelman	August 2008	August 2013
Mark Hart	September 2007	September 2012
Dale Hewat	September 2008	September 2013
Judith Hinchman	August 2008	August 2013
Ajit Jain	March 1999	September 2012
Kaye Joachim	December 2005	September 2012
Janice Diane Johnston	January 4, 2011	January 2013

Sunil Kapur	June 28, 2006	June 2014
Judith Keene	November 2008	November 2013
Michael Lerner	January 2011	January 2013
Sherry Liang	September 2007	September 2012
Ian Mackenzie	March 2011	March 2013
John Manwaring	May 2009	May 2014
Kathleen Martin	June 2006	September 2012
Mary Anne McKellar	April 1995	February 2014
Yasmeena Mohamed	January 2011	January 2013
David Muir	August 2008	August 2013
Naomi Overend	September 2008	September 2013
Sheri Price	September 2008	September 2013
Leslie Reaume	June 2007	June 2012
Alison Renton	October 2008	October 2013
Caroline Rowan	October 2005	October 2012
Douglas Sanderson	January 2011	January 2013
Janice Sandomirsky	August 2008	August 2013
Jennifer A. Scott	July 2006	July 2014
Jayashree (Jay) Sengupta	September 2008	September 2013
Brian Sheehan	August 2008	August 2013
Lorne Slotnick	September 2008	September 2013
Alan G. Smith	January 2011	January 2013
Mary Truemner	September 2008	September 2013
Eric Whist	September 2008	September 2013
Ailsa Wiggins	August 2008	August 2013
David Wright (Associate Chair)*	March 2007	March 2016

Landlord and Tenant Board

Adjudicator	First Appointed	Term Ends
Elizabeth Beckett	February 2001	April 2012
Joseph A. Berkovits	June 2005	July 2014
Louis Bourgon	December 2006	December 2016
Vincenza (Enza) Buffa	May 2004	May 2012
Kim E. Bugby (Vice-Chair)	September 2004	May 2013
William Burke	October 2005	October 2013
Ruth Carey	December 2006	December 2016
Vincent Ching	April 2006	April 2014
Shirley Jean Collins	November 2009	November 2014
Brian A. Cormier	April 2006	May 2012
Nancy Fahlgren	June 1998	June 2012
Eli Fellman (Vice-Chair)	December 2004	December 2013
Régent P. Gagnon (Vice-Chair)	July 2004	August 2013
Murray William Graham (Vice-Chair)	June 1998	June 2012
Petar Guzina	November 2009	November 2014
Sean Henry (Vice-Chair)	March 2004	December 2016
Brenna Homeniuk	December 2006	December 2016
Elke Homsy	March 2006	February 2014
Anita Louse Horton	June 2009	June 2014
Greg Joy	June 2005	June 2013
Caroline A. A. King	October 2004	October 2012
Claudette Leslie	April 2006	April 2014
Dr. Lilian Yan Yan Ma (Associate Chair)*	June 2005	March 2016

Sandra Macchione*	February 2011	February 2013
Vernon Wayne MacKinnon	December 2004	January 2014
Ieva Martin	June 2004	June 2012
James (Jim) McMaster	October 2005	November 2016
Alan B. Mervin	October 2001	July 2013
Debbie Mosaheb	February 2011	February 2013
Gerald Naud	October 2004	October 2012
John Patrick Nolan	November 2006	May 2011
Jean-Paul Pilon	August 2006	February 2012
James L. Robinson	February 2011	February 2013
Jana Rozehnal	April 2006	April 2014
Egya Ndayinanse Sangmuah	January 2007	January 2017
Guy William Savoie (Vice-Chair)	May 2001	April 2012
Freda Shamatutu	April 2004	April 2012
Michael Soo	July 2010	July 2012
Lisa M. Stevens	November 2009	November 2014
Lynn Stilwell	April 2004	April 2012
Gerald Douglas Taylor	September 2001	September 2012
Jeanie Theoharis	December 2006	December 2016
Marian Elizabeth Usprich	March 2006	February 2014
Jonelle van Delft (Vice-Chair)	November 2004	June 2012
Brad J. Wallace	December 2005	December 2013
Karen Wallace	December 2006	December 2016
Sylvia Nancy Watson	June 2009	June 2014
Karol Wronecki	January 2007	January 2017

Ontario Special Education Tribunals

English Tribunal Members

Adjudicator	First Appointed	Term Ends
Ross Caradonna	May 2008	May 2013
Suzanne Gilbert*	May 2011	March 2016
Derryn Gill	April 2005	June 2012
Miray Granovsky	December 2010	December 2012
Janice Leroux	November 2006	November 2012
Carlana Lindeman	August 2008	July 2013
Julie Lindout	April 2005	June 2012
Uma Madan	October 2005	November 2012
Jim McCaughey	May 2005	May 2012
Eva Nichols (Vice-Chair)	January 2005	February 2013
Noel Williams	October 2005	November 2012

French Tribunal Members

Adjudicator	First Appointed	Term Ends
Céline Allard (Associate Chair)	March 2011	February 2013
Suzanne Gilbert*	May 2011	March 2016
Colette Grant	May 2011	May 2013
Lillian LaForest	April 2008	April 2013
Robert Lefebvre (Vice-Chair)	January 2005	February 2013
Joanne Van Alstyne	May 2011	May 2013

Social Benefits Tribunal

Adjudicator	First Appointed	Term Ends
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Brian Brown	April 2004	May 2013
Helen Buckley-Routh	September 2003	September 2012
Sylvie Charron	December 2009	December 2012
Dorte Deans	September 2005	October 2012
Patrick Doran*	June 1998	August 2012
Denise Dudley	March 2005	March 2013
Nathan Ferguson	June 2006	June 2014
Kelly Gaon	August 2008	August 2013
Audrey Hummelen	June 2007	April 2013
Anna Jurak	May 2004	June 2013
Dawn Kershaw-Halligan	June 2006	June 2014
Linda Lebourdais	February 2005	February 2013
Sandra Macchione*	November 2006	November 2011
William Murray	June 2008	November 2012
Marilyn Mushinski	June 2004	July 2013
Janice MacGuigan	May 2008	May 2013
Roslynne Mains	January 2003	February 2012
Sandra Margerrison	June 1998	May 2013
Carol Anne McDermott	June 2007	June 2012
Frank Miclash	October 1999	November 2012
Beverly Moore (Vice-Chair)	October 2006	October 2014
Robert Murray (Vice-Chair)	May 2004	February 2014
Monica Purdy	March 2005	March 2013
Margaret Reynolds	April 2006	April 2014
Tony Riccio	October 2005	November 2012
Sherene Shaw	February 2005	February 2013

Richard Simpson	October 2005	October 2013
Rosemary Walden-Stephan	February 2001	July 2013
Roy Wood	March 2005	March 2013
Gary Yee (Associate Chair)*	September 2009	March 2016

SJTO FINANCIAL INFORMATION

Data for fiscal year 2011-2012:
IFIS Year-End Report or Draft Public Accounts

The table below shows the expenditures and revenues of the SJTO for 2011-12.
This is the first year of financial consolidation.

VOTE & ITEM 303-7 Residential Tenancy	2011/12 (\$)
Salaries	31,503,018
Benefits	4,064,677
Travel & Communications	2,578,866
Services	7,512,619
Part-Time Members per diem	1,607,339
Supplies & Equipment	722,803
Total	47,989,322
Fees*	12,079,147

*These are fees collected from the Landlord and Tenant Board for filing applications. They are deposited in the Consolidated Revenue Fund