



ENVIRONMENTAL REVIEW TRIBUNAL

*2001-2002
Business Plan*

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Message from the Chair

As the Chair of the Environmental Review Tribunal, I am pleased to share with you our 2001-2002 business plan. The plan will outline some of our achievements from the past year and our commitments and targets to further improve the hearing process while adhering to standards of fairness, accessibility, timeliness, quality and consistency, transparency, expertise, optimal cost and courtesy.

Over the past three years, the new Tribunal has improved accessibility, increased client service, re-evaluated core businesses and adopted fiscal responsibility.

The Members and staff of the Tribunal are committed to serving the people of Ontario. In addition to adopting the performance measures suggested by Management Board of Cabinet (i.e., time needed to schedule a new hearing, time needed to write the decision, and overall time from start to completion), the Tribunal continues to use customer surveys for hearings held under its environmental statutes. These surveys seek feedback from all parties appearing at the Tribunal's hearings including lawyers/agents, and of anyone attending a public outreach function. The responses have indicated a high satisfaction rating with the Tribunal's hearing processes and outreach initiatives.

In relation to cost effectiveness, the Tribunal has monitored the cost of a hearing and mediation meetings. The results indicated that successful mediations effectively lower or sometimes eliminate the cost of a hearing.

In the past, the Tribunal recognized that it was lacking in its ability to provide information related to the Tribunal and its processes to its clients in an effective and efficient manner. An innovative three-part communication strategy was developed including: internet communication, information brochures and public education. Improvements to these three areas have resulted in a higher level of service to the public and an increase in the public's knowledge and abilities when appearing before the Tribunal.

The Environmental Review Tribunal's creative improvement of its client policies and management with a focus on customer service delivery, has allowed the Tribunal to stand at the forefront of public service.

Carl F. Dombek
Chair

Tribunal Mandate

On December 6, 2000, the *Red Tape Reduction Act, 2000* was proclaimed and the Environmental Assessment Board and the Environmental Appeal Board were formally reconstituted as the Environmental Review Tribunal. This change reflects the administrative amalgamation of the two Boards which occurred in the 1998/99 fiscal year.

The Environmental Review Tribunal is committed to conducting timely, fair, efficient and impartial hearings which protect the environment and are consistent with the governing legislation.

The Tribunal functions as a quasi-judicial body, subject to the rules of natural justice and the requirements of the *Statutory Powers Procedure Act*. The Tribunal's primary role is adjudicating applications and appeals under various environmental and planning statutes. The Tribunal hears applications and appeals under the *Environmental Assessment Act*, the *Environmental Protection Act*, the *Ontario Water Resources Act*, and the *Pesticides Act*, and leave to appeal applications under the *Environmental Bill of Rights, 1993*. The Environmental Review Tribunal also functions as the Office of Consolidated Hearings to hear applications made under the *Consolidated Hearings Act* and as the Niagara Escarpment Hearing Office to hear development permit appeals and Niagara Escarpment Plan amendment applications under the *Niagara Escarpment Planning and Development Act*.

To fulfill its mandate, the Tribunal has re-engineered its administrative processes, through implementing a computerized case management system; improving its communication with the public and its stakeholders by introducing a Website and outreach strategies; and implementing a comprehensive mediation strategy to ensure that all parties who appear before it are given an opportunity to resolve their disputes without the additional time and expense of proceeding to a full hearing.

Core Businesses

The Environmental Review Tribunal has four core businesses which are:

- 1. Outreach**
- 2. Alternative Dispute Resolution**
- 3. Staff Processing of Hearings**
- 4. Hearings and Decision Making**

1. OUTREACH

Passive Component:

The passive component of the Tribunal's outreach core business consists of a number of initiatives. The Tribunal has created brochures, flyers and other publications explaining its role and procedures for distribution to clients upon request. Also, the Tribunal has created and maintained a website which provides a wide variety of material on an ongoing basis. Website users have 24-hour access to current information regarding the Tribunal and its hearings, as well as its decisions, forms, relevant statutes, Rules of Practice, etc.

Active Component:

The active component of the Tribunal's outreach core business includes a number of initiatives, from staff responses to questions from clients to Public Information and Education Sessions delivered by senior staff or Tribunal members and stakeholder consultation. These Information Sessions may be held by the tribunal to inform the public of the hearing process prior to major hearings or, upon request, to educate various public groups more generally about the Tribunal's jurisdiction, processes and other matters. Website users can also view the presentation on the Tribunal's website. The Tribunal has formed a Client Advisory Committee of stakeholders to assist the Tribunal in providing feedback, on an ad hoc basis, on new policies, procedures and general operational issues. Also, a "feedback" form has been created on the website to pro-actively communicate with users who are obtaining information.

2. ALTERNATIVE DISPUTE RESOLUTION SERVICES

The Tribunal's senior staff and several of its members have received certified training in Alternative Dispute Resolution (ADR) and are experienced in mediation and other ADR services. These services, conducted 30 days before the commencement of a hearing, will be offered to all parties appearing before the Tribunal, and before the Niagara Escarpment Hearing Office.

3. STAFF PROCESSING OF HEARINGS

This core business includes all administrative steps necessary to process an appeal/application from the date of first filing to the beginning of the hearing, including:

- screening the application to assess its compliance with the Act under which it was filed;
- assigning it to an appropriate hearing process;
- scheduling the hearing according to the Tribunal's practices and information specific to the appeal/application.

4. HEARINGS AND DECISION MAKING

This component is entirely in the hands of the Tribunal members, all of whom are Order-in-Council appointees. It includes hearings held by members and their written decisions.

All recommendations/decisions made under the *Niagara Escarpment Planning and Development Act* on permit development applications are required by legislation to be made within 30 days of the conclusion of the hearing or within such longer period as the Minister of Natural Resources may allow. Niagara Escarpment Plan amendment application decisions must be rendered not more than 60 days after the conclusion of the hearing or within such extended time as the Niagara Escarpment Commission may specify. Tribunal decisions on the *Environmental Bill of Rights, 1993* leave to appeal applications are to be made within 30 days after the day on which the application is filed, unless the Tribunal determines that, because of unusual circumstances, a longer period is needed. In all other types of decisions, Tribunal Members will endeavor to make their decision within 30 days of the completion of the hearing.

Annual Report on Key Achievements for 2000-2001

The Tribunal releases its report on its annual achievements in its Annual Report which is presented to the Minister within 90 days of the end of the fiscal year.

The Tribunal anticipates that it has met or exceeded all of its key achievements for the fiscal year 2000-2001.

Key Commitments and Strategies for 2001-2002

The Tribunal has set the following goals as a high priority for the fiscal year 2001-2002:

Outreach:

In its outreach core business, the Tribunal will continue to improve its communication with stakeholders, parties and members of the public. The Tribunal will continue to provide information to the public via its website, printed brochures and flyers, as well as through public information and education sessions.

Commitment #1: Website Access:

The Tribunal considers its website to be its number one communication channel. The public has embraced the website as the primary way to access information about the Tribunal and its processes. In the first eight and a half months of the current fiscal year, the Tribunal has had a total of 6,191 visitors to its site and a total of 201,677 “hits” on specific pages in the site. One decision, which was issued in June, 1998, was downloaded from the site 2,803 times during this period alone. The Tribunal will continue to use its website to: provide copies of decisions, Rules of the Tribunal and relevant statutes; receive stakeholder feedback; and notify the public of the status of ongoing hearings, etc. The Tribunal’s website will continue to be updated daily with hearing related information. The staff will review the site to ensure optimum delivery of service and will consider comments received from stakeholders regarding ways to improve the site.

Risk Assessment:

There are very few risk factors related to the updating of information on the website since the Tribunal has a systems officer as well as other trained support staff who can accomplish this task. The Tribunal receives its connection to the gateway from another agency, the Ontario Energy Board, free of cost. To-date, the website has cost the Tribunal very little due to in-house information technology support. However, if the Tribunal were to lose the use of free access to the gateway from the Ontario Energy Board, the cost of operating the site would increase substantially.

Commitment #2: Public Education and Information Sessions:

In the past, the Tribunal has provided presentations to interested groups, including municipal governments, local service groups, professional groups such as planners or engineers and educational institutes, and explained the Tribunal's mandate and its hearing processes. The Tribunal will continue to offer this service and will provide this information on its website. The Tribunal also conducts Public Information Sessions to inform the public of the hearing process prior to the commencement of any complex hearings.

Risk Assessment

The Tribunal will continue to provide public information sessions prior to the commencement of any complex hearings. In addition, the Tribunal will actively promote its public information sessions to groups with an interest in the Tribunal's mandate and hearing process. The Tribunal, however, has no control over the number of requests it may receive to present to these groups. If a large number of requests are made, the Tribunal will strategically assess and use its resources in responding to these requests.

Alternative Dispute Resolution:

The Tribunal's second Core Business is the delivery of Alternative Dispute Resolution Services (ADR). This service is available to all parties to matters which are heard by the Tribunal. The senior staff of the Tribunal and several of the Tribunal Members have been certified through accredited ADR courses, and have experience in mediation and other ADR services. These services will be offered, in a timely manner, to all parties and their representatives and are generally held 30 days prior to the commencement of a hearing. The use of ADR Services in hearings encourages parties to settle their differences. ADR often removes the need to proceed to a hearing or at a minimum, reduces the number of issues to be resolved.

Commitment #3: Alternative Dispute Resolution Services:

The Tribunal will continue to offer these services in every appeal and, upon request, in all applications it receives in order to encourage parties to resolve their issues. In addition, after the completion of the ADR Session, the Tribunal issues Questionnaires to the parties to ascertain how performance standards have been met including the parties' level of satisfaction with the process and the Tribunal's involvement. The Tribunal will monitor the success rate of

mediation meetings in reducing the number of cases that proceed to a hearing,

as well as tracking their costs.

Risk Assessment:

The Tribunal is willing to assist all parties in mediating their case before or during the hearing stage. However, in the past, not all sides have wished to participate in the mediation process even though other parties to the case have requested ADR services. This is a factor outside the Tribunal's control, which may adversely impact on the public's perception of the Tribunal's performance if clients feel that they are not receiving a service which may provide cost saving measures (both public and private), and eliminates the need for or shortens the length of a hearing.

Questionnaires completed by parties at the conclusion of an ADR meeting provide the Tribunal with valuable input into the ADR process. In the past, some completed questionnaires contained comments about the process prior to the commencement of the Tribunal's involvement or comments of a nature which are beyond the mandate of the Tribunal. As these questionnaires are submitted anonymously by the parties, it is impossible to address the concerns or clarify the Tribunal's role directly with the concerned party.

Staff Processing of Hearings:

This phase includes all administrative steps necessary to process an appeal/application from the date of first filing to the commencement of the hearing.

Commitment #4: *Timeliness in scheduling hearings*

The staff are committed to ensuring that every application and appeal is processed through the appropriate administrative mechanism to ensure the timely scheduling of all matters before the Tribunal. Staff will adhere to timeliness standards to ensure that 90% of all cases heard are scheduled within 30 calendar days from the date the application/appeal is received by the Tribunal. In addition, cases will be scheduled within seven calendar days from the date the Tribunal receives all the necessary information/documentation from the parties to the proceedings.

Risk Assessment:

In the scheduling of complex hearings, it may be difficult for the staff to adhere to the scheduling standard if numerous and complex issues arise. In multi-party applications, it may be difficult to coordinate the receipt of information from all parties in a timely manner. The staff will endeavor to ensure that all parties receive the same standard of excellence in scheduling all cases.

The Tribunal has no control over the size or complexity of its workload. The number of cases filed with the Tribunal is dependent, in large part, on the number of Orders or Certificates of Approval issued by Directors under the Ministry of the Environment and the number of development permit applications issued or refused by the Niagara Escarpment Commission. The increase of the issuance of these instruments by the Ministry or the Niagara Escarpment Commission will impact on the number of applications or appeals filed with the Tribunal. Given the Tribunal's small staff complement, a large number of new applications may impact on the staff's workload and its ability to comply with these scheduling standards.

The Tribunal also has no control over the increase of responsibility to meet its mandate if changes or amendments are made to its governing legislation. This may also impact Tribunal staff's ability to meet its scheduling standards.

Commitment #5: Electronic Service Delivery (ESD)

The Tribunal recognizes that by April 1, 2003, ESD will become a reality for all government ministries and agencies. In order to anticipate that reality, the Tribunal will begin offering electronic filing of documents such as Notices of Appeal and Written Submissions during the course of the hearings, as well as receiving correspondence from the parties electronically via internet, email and the attachments thereto. This will improve the efficiency and effectiveness of the Tribunal's ability to process cases. It is also a proper response to the growing demand for the use of such technology by parties before the Tribunal.

Risk Assessment:

The general public may perceive ESD to be "elitist" if they are unable to use ESD options. Parties not using ESD may consider themselves to be at a disadvantage compared to other parties who are able to use this option. The Tribunal will continue to receive paper documents and parties will be given a choice of which option they may wish to use. The Tribunal is fully aware of the government's commitment to its ESD strategy which is to improve service by offering more public access.

There is a question of security when filing documents through ESD since these documents become 'public' when filed by parties during the public hearing

process. The Tribunal will ensure that parties are aware that if any document does contain information which a party wishes to remain confidential, it will have to obtain an Order from the Tribunal to hold such documents in confidence, much as the party would have to do if it had filed a paper copy.

Hearing and Decision Making

This component is entirely the responsibility of the Tribunal members, all of whom are Order-in-Council appointees. It includes hearings held by members and their written decisions.

Commitment #6: Courtesy and Respect at Hearings

Tribunal Members are committed to ensuring that all parties are treated courteously and with respect when appearing before the Tribunal at a hearing. The Tribunal has developed a Complaints Policy which is available to all parties to proceedings. The Tribunal will continue to treat all complaints about the conduct of its Members very seriously and will comply by investigating any complaints brought forward in accordance with the Complaints Policy.

Risk Assessment:

If a complaint concerning the conduct of a Member at a hearing is investigated and found to be legitimate, the Chair will report the incident to the appropriate Minister and the Public Appointments Secretariat.

Commitment #7: Cost of Hearings and Decision Making

The Tribunal will continue to track the cost of hearings to ensure the efficient use of public funds.

Risk Assessment:

Although the Tribunal will continue to track the cost of hearings, the number of hearing and factors affecting the costs of individual hearings such as, complexity of issues, length and location of hearing may vary annually. This may make it difficult to compare these costs with previous fiscal years. However, the Tribunal has taken steps to ensure that its members and staff adhere to the government financial policies.

Key Performance Measures

Outreach
Core Business:

Goals/Outcomes	Measures	Targets/Standards	2001-2002 Commitments
<p>Commitment #1: Website Access</p> <p>The Tribunal will use its website to communicate with its customers.</p>	<p>The Tribunal will track the number of visitors to the site to monitor its use.</p>	<p>Continued increase in the use of the site.</p>	<p>Website will be updated each business day to ensure optimal delivery.</p> <p>Web server will be “up” 99% of the time.</p> <p>New Rules of Practice, Guidelines, policies, etc. will be posted as approved.</p> <p>Staff will respond to e-mail communication within 24 business hours.</p>
<p>Commitment #2: Public Education and Information Sessions will be used to promote public awareness and knowledge of the Tribunal’s mandate and hearing process.</p>	<p>The Tribunal will offer these services to interested groups and seek out speaking engagements where the Tribunal’s profile can be showcased.</p>	<p>Present to a growing number of key audiences.</p>	<p>To contact and make presentations to representatives of key organizations whose mandate requires them to follow the Tribunal’s processes.</p>

Alternative Dispute
Resolution
Core Business

Goals/Outcomes	Measures	Targets/Standards	2001-2002 Commitments
<p>Commitment #3: ADR Services</p> <p>Offer ADR services in all appeal cases, where appropriate, and on request in application cases, prior to the commencement of the hearing.</p>	<p>When all parties agree to participate, mediation meetings will be held at least 30 days prior to the commencement of the hearing.</p>	<p>Increase the number of cases receiving mediation.</p>	<p>Continue to offer mediation services in every appeal and at the request of the parties in applications.</p> <p>Questionnaires will be sent to all parties at the completion of the ADR session to ascertain their level of satisfaction with the ADR process and the Tribunal's involvement.</p> <p>The Tribunal will monitor the success of mediation meetings by tracking the cases that are resolved prior to the hearing.</p> <p>The Tribunal will monitor the cost of mediation meetings.</p>

Staff Processing of
Hearings
Core Business

Goals/Outcomes	Measures	Targets/Standards	2001-2002 Commitments
Commitment #4: Improve Timeliness in Scheduling Hearings	Hearings will be scheduled within the timeliness standard.	Hearing dates will be scheduled within 30 calendar days from the date of the receipt of the application/appeal and 7 calendar days from the date the Tribunal receives all necessary information/documentation from the parties	<p>In 90% of cases scheduled, staff will adhere to the target.</p> <p>Administrative procedural manuals will be updated to reflect this standard and manuals will be used in the orientation of new staff.</p>
Commitment #5: Electronic Service Delivery (ESD)	ESD option will be available for all applicants/appellants to file applications/appeals and written submissions.	Parties will be able to access ESD options in all types of cases by April 1, 2003.	<p>Administrative procedures will be reviewed and modified to accept applications/appeals filed electronically.</p> <p>The impact of ESD on Tribunal Rules, Guidelines and Policies will be reviewed.</p> <p>The Tribunal will pilot the receipt of written submissions during the NEC Plan Review hearing to be conducted 2001. Surveys will be conducted at the completion of the hearing to ascertain feedback from parties making submissions electronically.</p>

Hearing and Decision Making Core Business			
Goals/Outcomes	Measures	Targets/Standards	2001-2002 Commitments
Commitment #6: Everyone participating in a hearing will be treated with courtesy and respect by Tribunal Members.	The Tribunal will survey hearing participants through Questionnaires at the completion of the hearing to monitor respect and courtesy. All complaints will be investigated in accordance with the Tribunal's Complaints Policy.	To provide Questionnaires that monitor respect and courtesy accorded to hearing participants by Tribunal members and investigate complaints in accordance with the Tribunal's Complaints Policy.	Results of Hearing Questionnaires will be reported in the Tribunal's Annual Report. All complaints will be treated seriously and the Tribunal will comply with its Complaints Policy.
Commitment #7: Tribunal will monitor the cost of Hearings to ensure the maximum efficient use of public funds.	The cost associated with the Hearing and Decision Making processes will be tracked including the Tribunal Member's time, travel, accommodation, meals, telephone expenses, etc.	The cost associated will be tracked.	Track costs and compare to previous fiscal year.

2000-2001 Approved Budget

Environmental Review Tribunal

(\$000's)

General Account for the Operation of the Tribunal:

Salaries and Wages	\$ 929	
Employee Benefits	\$ 166	
Transportation/Communication	\$ 126	
Services	\$ 250	
Supplies and Equipment	\$ 56	
Total Direct Operating		\$1,527

Additional Funds allocated for the Water Projection & Regulation Initiative:

Services:	\$ 50	
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Total Funds allocated to the Tribunal:		\$1,577
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Who to Call

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