

HORSE RACING APPEAL TRIBUNAL - MANDATE AND ROLES

Preamble

The *Alberta Public Agencies Governance Act* (APAGA) requires that agencies, without exception, have mandate documents that describe clearly and in detail, the agencies' purposes, powers and roles.

The Mandate and Roles Document for the Appeal Tribunal established pursuant to Part 3 of the *Horse Racing Alberta Act* ("*HRA Act*") has been developed collaboratively between the Solicitor General and Minister of Public Security and the Appeal Tribunal to reflect a common understanding of their respective roles and responsibilities.

Nothing in this Mandate and Roles Document is intended to, or shall, interfere in any way with the Appeal Tribunal's exercise of its statutory jurisdiction or powers of decision.

The Appeal Tribunal is a quasi-judicial body, making decisions independent from the Government and Horse Racing Alberta ("*HRA*").

1. APPEAL TRIBUNAL MANDATE

The Appeal Tribunal is created under s. 23 of the *HRA Act*. The members of the Appeal Tribunal are appointed by the Minister and are responsible for hearing appeals of a ruling or direction of a racing official as defined in the *HRA Act*.

2. QUASI-JUDICIAL INDEPENDENCE

2.1 The Appeal Tribunal is a statutorily created administrative tribunal. Any statement of roles, purposes and powers does not in any way limit or interfere with this quasi-judicial function.

2.2 The Minister and the Chair of the Appeal Tribunal agree that:

2.2.1 The legal foundations of a quasi-judicial administrative tribunal are based on the principles of independence and impartiality of decision-making.

2.2.2 Nothing in this Memorandum shall interfere with the Appeal Tribunal's independence, including but not limited to, the Appeal Tribunal's independent role as a quasi-judicial administrative tribunal, the Appeal Tribunal's procedural and substantive decision-making authority and the exercise of the Appeal Tribunal's statutory authority and legislative mandate.

2.2.3 The structures, reporting relationships and processes within the mandate and role of the Agency will ensure this independence.

3. APPLICABLE LEGISLATION AND REGULATIONS

The Appeal Tribunal has responsibilities under, and is subject to, a number of statutes and regulations including:

- *Horse Racing Alberta Act*
- *Alberta Rules of Court*
- *Freedom of Information and Protection of Privacy Act (FOIP)*
- *Financial Administration Act*
- *Government Accountability Act*
- *Interpretation Act*
- *Public Service Act*
- *Ombudsman Act*
- *Human Rights, Citizenship and Multiculturalism Act*
- *The Alberta Public Agencies Governance Act*

4. DUTIES AND RESPONSIBILITIES

4.1 General

4.1.1 The Government is responsible for the legislation under which the Appeal Tribunal is created and operates.

4.1.2 HRA is responsible for rules with respect to horse racing under section 22 of the *HRA Act*.

4.1.3 The Appeal Tribunal is responsible for the rules governing the practice and procedure applicable to proceedings before it.

4.2 The Minister

4.2.1 The Minister is responsible for the Appeal Tribunal.

4.2.2 The Minister:

4.2.2.1 Reports to and answers questions of the Legislature, and committees of the Legislature, on the affairs of the Appeal Tribunal.

- 4.2.2.2 Appoints the Appeal Tribunal members by Ministerial Order and designates one as the Chair based on her/his assessment that the appointees have the appropriate knowledge, skills, experience and values to assist the Appeal Tribunal in achieving its objectives and performing its functions;
- 4.2.2.3 Prescribes the remuneration and expenses payable to the Chair and Appeal Tribunal members;
- 4.2.2.4 Monitors the operations and performance of the Appeal Tribunal to ensure that it is fulfilling its mandate in compliance with the *HRA Act* and any applicable Government policies;
- 4.2.2.5 Participates in the process of setting and monitoring the Appeal Tribunal's strategic direction;
- 4.2.2.6 Informs the Appeal Tribunal of Government policies and direction affecting the work of the Appeal Tribunal;
- 4.2.2.7 Conducts regular (at least every seven years) reviews of the Appeal Tribunal's mandate and purpose to determine if the work of the Appeal Tribunal is still relevant to the needs of Albertans, if it is aligned with Government priorities and if the operations and functions are being carried out in a manner that can achieve Government objectives; and
- 4.2.2.8 Conducts annual performance assessments of the Chair.

4.3 The Chief Executive Officer of the Alberta Gaming and Liquor Commission

- 4.3.1 The Chief Executive Officer ("CEO") of the Alberta Gaming and Liquor Commission ("AGLC") supports and acts under the general direction of the Solicitor General and Minister. The CEO is responsible for the following activities which have been delegated by the Minister:
 - Conducts meetings as required with the Appeal Tribunal Chair to review caseload and emerging issues.

4.4 The Alberta Gaming and Liquor Commission

- 4.4.1 In order to meet the responsibilities delegated to the Appeal Tribunal, the Government and the AGLC are responsible for supporting the Appeal Tribunal in the following areas:
 - Human Resources (support for the appointment process)
 - Legislative Support, as required.

4.5 The Department of the Solicitor General and Public Security ("Department")

- 4.5.1 In order to meet the responsibilities delegated to the Appeal Tribunal, the Government and the Department are responsible for supporting the Appeal Tribunal in the following areas:
- Processing of Ministerial Orders,
 - Posting approved Appeal Tribunal documents on GOA/Ministry website, and
 - FOIP, as required.

4.6 Horse Racing Alberta

In accordance with section 23(6) of the *Horse Racing Alberta Act*, HRA is required to pay the expenses and costs incurred in the operation of the Appeal Tribunal. These include the costs of administrative support for the Tribunal.

5. THE APPEAL TRIBUNAL

The Chair of the Appeal Tribunal is responsible for the governance of the Appeal Tribunal and oversees the management of the Appeal Tribunal's business and affairs. The Chair guides the Appeal Tribunal's strategic direction, approves and monitors the Appeal Tribunal's business plan, and is ultimately accountable to the Minister.

Appeal Tribunal members must act honestly, in good faith, leaving aside personal interests to advance the public interest and the mandate of the Appeal Tribunal.

5.1 Recruitment and Appointment of Members

Appeal Tribunal members are appointed by the Minister. The Minister designates one member as Chair of the Appeal Tribunal.

The Appeal Tribunal and the AGLC have developed a competency matrix for the Appeal Tribunal members as a whole and the values and competencies required for individual members. Values will include respect, integrity, excellence and accountability. Competencies will include strong listening and communication skills, skills in developing consensus and an understanding of wise stewardship of resources.

Recruitment will be based on the competencies approved by the Minister.

The recruitment process will be led by the Appeal Tribunal Chair in consultation with the AGLC's CEO.

When a vacancy occurs, the Appeal Tribunal will identify the competencies that need to be replaced and will provide that profile to the individual/team responsible for leading the recruitment process.

A public posting of all vacancies will be the responsibility of the AGLC's Human Resources. The posting will include the required competencies.

The review of applications will be lead by the AGLC's Human Resources or appointed recruiting firm and the Appeal Tribunal Chair. The interview panel, at a minimum, will consist of representatives from the AGLC's Human Resources or appointed recruiting firm, the Appeal Tribunal, and the Minister's representative to the HRA Board. The CEO may also participate on the panel at his discretion.

Candidates will be assessed on the basis of the applicable competencies and values identified by the Appeal Tribunal and approved by the Minister.

A list of suitable candidates for the vacancy will be provided to the Minister.

The Minister will appoint a replacement to the Appeal Tribunal from the short list provided and the Department will coordinate the processing of the Ministerial Order.

The results of the recruitment process will be posted publicly at the GOA/Ministry website by the Department.

5.2 The Chair of the Appeal Tribunal is responsible for:

- 5.2.1 representing the Appeal Tribunal and its interests, in dealing with the Minister, CEO, the AGLC, HRA, stakeholders and the community;
- 5.2.2 providing leadership to the Appeal Tribunal and for effectively facilitating the work of the Appeal Tribunal;
- 5.2.3 ensuring the day to day operations and management of the Appeal Tribunal are conducted within its legislative mandate;
- 5.2.4 ensuring that procedures and practices are established to support the operations of the Appeal Tribunal;
- 5.2.5 ensuring that appropriate systems and service providers are in place to provide for the financial and administrative management and control of the Appeal Tribunal;
- 5.2.6 monitoring performance and taking corrective actions when issues or problems are identified;
- 5.2.7 providing an orientation to governance practices;
- 5.2.8 providing ongoing development opportunities for the Appeal Tribunal members;
- 5.2.9 addressing how the Appeal Tribunal interacts with the public and establishing policies that clearly identify roles and responsibilities in the area of communication with the public;

- 5.2.10 developing mechanisms to communicate with the Minister and the AGLC on items of mutual concern;
- 5.2.11 providing the Minister and CEO with regular updates on the Appeal Tribunal's operations and informing the Minister and CEO regarding emergent issues;
- 5.2.12 ensuring that the Appeal Tribunal conducts an annual evaluation of its performance, and the work of individual Appeal Tribunal members; and
- 5.2.13 administering the Code of Conduct and ensuring that conflict of interest matters are addressed by the Appeal Tribunal.

5.3 Appeal Tribunal Members

- 5.3.1 A member has the authority, as a member of a panel of the Appeal Tribunal, to hear and determine all matters and questions arising under the *HRA Act* within the jurisdiction of the Appeal Tribunal.
- 5.3.2 The Appeal Tribunal Chair will assigned members to a hearing panel for a specific matter to examine, inquire into, hear and determine that matter. The Appeal Tribunal Chair may act as the hearing panel chair or assign a member to act as the hearing chair for a specific matter.
- 5.3.3 Hearing chairs are provided with powers that may be exercised during the course of hearing an appeal such as determining the status of parties, requiring written submissions, setting dates, etc.
- 5.3.4 Hearing chairs have full responsibility for the conduct of the hearing and the facilitation of decision-making, drafting the panel decision and issuance of the decision of the Appeal Tribunal.

6. INTERACTION BETWEEN THE APPEAL TRIBUNAL AND THE AGLC

- 6.1 The AGLC's CEO interacts with the Appeal Tribunal as required for the purposes of providing support as per section 4.4 of this agreement and coordinating support as per section 4.5 of this agreement.
- 6.2 The Appeal Tribunal will work directly with the CEO in providing and preparing input to assist the Minister and the AGLC in responding to issues raised by/with the Minister relating to the Appeal Tribunal.

7. ADMINISTRATION

7.1 Review of the Mandate and Roles Document

The Mandate and Roles document shall be in effect for not more than three years. It must be renewed or revised by the expiry date.

The Mandate and Roles document must be affirmed annually by the Minister and the Appeal Tribunal Chair, or upon a change in either the Minister or Appeal Tribunal Chair.

7.2 Transparency

Copies of the Mandate and Roles document will be filed with the Minister, the Appeal Tribunal and the Agency Governance Secretariat. In support of the principle of transparency, this document will also be available to the public on the GOA/Ministry's website.

7.3 Periodic Agency Review

A review of the Appeal Tribunal's mandate and purpose will be carried out by the AGLC in accordance with the review process developed in consultation with the Agency Governance Secretariat.

Affirmed,

Affirmed,

Original Signed by

Original Signed by

Dr. Maggie Fulford
Appeal Tribunal Chair

Frank Oberle
Solicitor General and
Minister of Public Security

September 23, 2010

September 20, 2010

Date

Date

Attachment: Horse Racing Appeal Tribunal Competency Matrix

Horse Racing Appeal Tribunal – Competency Matrix – September 2010

	Chair	Member 1	Member 2
Core Qualities			
Integrity and accountability			
Objectivity			
Consensus building			
Sound judgement			
Impact and influence			
Conflict and pressure management			
Aptitude for adjudication, including fairness, listening skills, open-minded, tact and professionalism			
Stewardship			
Leadership			
Core Expertise			
Post secondary education from a recognized institution or equivalent experience in a related field			
Specialized training in administrative law, statutory interpretation and principles of natural justice desirable			
Previous Board experience including experience in hearings, consensus decision making and decision writing as well applying a Code of Conduct			
Experience using computer technology in a business environment			
Some knowledge of the framework for horse racing Alberta			
Some understanding of the mandate and role of the Appeal Tribunal			
Ability to organize and analyze information and evidence			
Ability to effectively communicate orally and in writing			
Some experience managing financial and other resources			