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**Official Report
of Debates
(Hansard)**

A-32

**Journal
des débats
(Hansard)**

A-32

**Standing Committee on
Government Agencies**

Intended appointments

1st Session
43rd Parliament

Thursday 16 May 2024

**Comité permanent des
organismes gouvernementaux**

Nominations prévues

1^{re} session
43^e législature

Jeudi 16 mai 2024

Chair: David Smith
Clerk: Isaiah Thorning

Président : David Smith
Greffier : Isaiah Thorning

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Thursday 16 May 2024

Jeudi 16 mai 2024

The committee met at 0900 in room 151.

The Chair (Mr. David Smith): Good morning, everyone. The Standing Committee on Government Agencies will now come to order.

We are joined by staff from legislative research, Hansard and broadcast and recording.

As always, all comments by members and witnesses should go through the Chair.

SUBCOMMITTEE REPORT

The Chair (Mr. David Smith): The first item of business will be the adoption of a subcommittee report, which was distributed in advance. Go ahead, MPP Pasma.

Ms. Chandra Pasma: I move adoption of the subcommittee report on intended appointments dated Thursday, May 9, 2024, on the order-in-council certificate dated May 3, 2024.

The Chair (Mr. David Smith): Any discussion? Any further discussion? Are the members ready to vote? All those in favour? All opposed? The motion is carried.

INTENDED APPOINTMENTS

MS. AVRIL FARLAM

Review of intended appointment, selected by official opposition party: Avril Farlam, intended appointee as vice-chair, Licence Appeal Tribunal.

The Chair (Mr. David Smith): Our first intended appointment today is Avril Farlam, nominated as vice-chair of the Licence Appeal Tribunal.

You may make any initial statement at your discretion. Following this, there will be questions from members of the committee. With that questioning, we will start with the government, followed by the official opposition, with 15 minutes allocated to each recognized party.

Any time you take in your statement will be deducted from the time allotted to the government. You may proceed.

Ms. Avril Farlam: Good morning, Mr. Chair, Vice-Chair and honourable members of the standing committee. My name is Avril Farlam. Thank you for inviting me to appear before you today to discuss my qualifications to be a full-time vice-chair of the Licence Appeal Tribunal. I expect that by the end of my attendance here today, you will agree that I have the skills and qualifications to fulfill on a full-time basis the role of vice-chair that I am currently fulfilling on a part-time basis.

I have been a part-time vice-chair of the Licence Appeal Tribunal since 2016. It has been and is an honour to serve Ontarians in this position. As part-time vice-chair, I have heard many matters and written over 300 decisions on behalf of the Licence Appeal Tribunal and conducted numerous case conferences, some of which have resulted in matters being resolved without the need for a hearing.

I have heard matters in person and electronically, sitting as an adjudicator on my own and sometimes as part of a panel, often with other members of the Licence Appeal Tribunal observing for training purposes. I have participated in the training of many members of the Licence Appeal Tribunal, both structured training and mentoring.

I'm no stranger to a hearing room. A lawyer by training, I have a strong litigation background and have handled matters up to and including leave applications to the Supreme Court of Canada during my three decades in private practice. Starting in 2012, I served on a Canadian federal government tribunal, the then Canada Pension Plan/Old Age Security administrative review tribunal, as a legal member of the appeals division, where I heard appeals of disability pension decisions with colleagues as part of a three-person panel. I am proud to say that the decisions I was involved in were all unanimous.

Since 2013, I have served as a deputy judge of the Ontario Superior Court of Justice, where I have heard many matters in Small Claims Court. In a large proportion of those court hearings, persons represented themselves. Starting in 2015, I served for four years at the request of the city of Windsor as a hearing officer to hear appeals of parking bylaw infractions. I heard many matters.

Since 2021, I have served as a part-time vice-chair of the Ontario Fire Safety Commission, where I have heard many matters. Since 2022, I have served as a part-time vice-chair of the Ontario Animal Care Review Board—again, where I have heard many matters.

I understand the importance of listening, being fair and impartial in decisions, assessing evidence, and applying and interpreting the law. I have taught advocacy at the Law Society of Ontario bar admission course, taught business law at St. Clair College and supported the continuing education of judges by being a member of the Ontario Deputy Judges Association education committee since 2014.

Through the Women's Law Association of Ontario, I sponsored an annual award for a law student meeting certain law school educational criteria each year for five years. I have lectured for the Law Society of Ontario in continuing edu-

cation, served on the council of the Ontario Bar Association, Canadian Bar Association and Women's Law Association of Ontario, and given numerous talks as a volunteer at community organizations and schools, and served as a judge for student moots at Windsor law school.

I'm excited about the opportunity to continue to serve Ontarians as a full-time vice-chair of the Licence Appeal Tribunal and to utilize, build on and, with the benefit of my knowledge, training and experience, help further develop the skills of other members so that our tribunal can continue to serve Ontarians by delivering the fair, efficient, proportional and timely resolution of their matters before the tribunal that they rightly expect and deserve.

Thank you.

The Chair (Mr. David Smith): The remaining time goes to the government side. MPP Harris, go ahead, please.

Mr. Mike Harris: Good morning to you. Thank you very much for presenting here this morning. Obviously, the Landlord and Tenant Board is something that is very important. We talk about it here quite often and it's definitely something we want to make sure we have—I'm sorry, the Licence Appeal Tribunal. I'm getting them mixed up. Definitely also something we talk about very often, and we want to make sure that we have qualified candidates for these positions and that's why you're here today.

I guess it's a bit of an abstract question. I would like to get a bit of a sense of how you think this tribunal plays out in the justice system. How do you think it's important, and what do you think the role of this particular tribunal is?

Ms. Avril Farlam: The Licence Appeal Tribunal is part of a cluster of tribunals under Tribunals Ontario. Administrative tribunals are so important, as are the courts, but administrative tribunals deal a lot more—they touch a lot more lives of Ontarians than the courts do just because of the volume handled and the nature of the matters that they handle.

In terms of a role, tribunals—and particularly the Licence Appeal Tribunal plays a pivotal role in the administration of justice in Ontario, and I am proud to be associated with it, to have worked with it and to hopefully continue to work with it.

Mr. Mike Harris: Just to touch on some of your adjudicative experience, how do you believe that your background will enhance this particular tribunal's mission?

Ms. Avril Farlam: Well, as I said, I've been involved in tribunals since 2012, and I've been appointed by all three levels of government in the last 15 years to conduct hearings on various matters. I'm on two other tribunals, the Fire Safety Commission and the Animal Care Review Board, and I'm also a Small Claims Court judge. All of those functions are similar in that the function is to have parties appear before us, hopefully be able to put them somewhat at ease so they can talk about their cases if they're not represented by legal representatives, to hear their evidence, to assess it, to hear the evidence of both parties, all the arguments, all the submissions, and come to a fair and timely resolution by issuing a timely decision. That's what I do, that's what I've done many, many times in the past 15 years, and I'm happy to continue doing it [*inaudible*] role.

Mr. Mike Harris: Yes, that's great. Thank you.

I'm going to pass on my remaining time.

The Chair (Mr. David Smith): MPP McGregor, go ahead, please.

Mr. Graham McGregor: Good morning. Thanks for being here with us this morning. I'm just looking at your résumé—an incredible breadth of experience. So I really appreciate you continuing to want to serve the public and serve the province.

I note, as well, you're a Windsor resident, which is great. I think all members of the committee should—nobody would disagree that Windsor needs some more representation at the Ontario government. We feel strongly about that.

Could you talk a bit about your experience and how you manage and prioritize large caseloads? Because it is quite a busy job.

Ms. Avril Farlam: Yes. Well, it's a busy job, and I have, at the moment, I guess, four functions like that that I'm handling. I've got a demonstrated track record for many years of being able to handle a busy caseload. There is some prioritizing sometimes that has to take place, and I am willing to do that. I know how to do that. I know how to get to the matters that are the most important, that are the most urgent, to deal with them and to keep all of the balls in the air.

Mr. Graham McGregor: Awesome.

I'm good, Chair.

The Chair (Mr. David Smith): MPP Gallagher Murphy.

Mme Dawn Gallagher Murphy: Chair, through you, thank you, Madam Farlam, for being here today. I noted three decades of private practice. I think that's amazing.

So my question to you would be, what's motivating you to serve on this adjudicative tribunal?

Ms. Avril Farlam: Well, it's what I do. It's what I love to do. I've got the skills, I've got the experience and I really do feel a commitment particularly to the Licence Appeal Tribunal, that I should serve there, that I should train others to serve there, and to do the right thing by the people that appear in front of us. I'm very committed to that. That's not a theoretical commitment, and I'm willing to devote my time and energies as needed there.

Mme Dawn Gallagher Murphy: Excellent. Thank you. And just a follow-up on that one: I like the piece that you said that you like to teach others. I don't know if those were your exact words, but tell me a bit about that, because, obviously, you want to help others do a good job in the tribunal, in the hearings. So can you tell me what's motivating you there?

Ms. Avril Farlam: Yes, of course. Thank you for that question. So I do have a lot of experience also in teaching others, going way back to teaching at a community college.

0910

I've taught at the bar admission course, as I said in my opening statement. I used to teach in person, live, and I've done a lot of presentations for the Ontario Deputy Judges Association, for the law society and for the Women's Law Association. I just feel a commitment. There's no point having a lot of knowledge and a lot of experience and knowing how to do the right thing and how to serve Ontarians,

and then just keeping it in your vest pocket and not spreading it. It's essential that we train the up-and-coming adjudicators in the best possible ways to handle matters before the tribunal.

M^{me} Dawn Gallagher Murphy: Excellent. Thank you very much.

Chair, I'll pass it over to one of my colleagues.

The Chair (Mr. David Smith): MPP Holland, go ahead, please.

Mr. Kevin Holland: Good morning. Thank you for joining us and thank you for serving as the interim or part-time chair or vice-chair at this time. If you're interested in becoming full-time, looking at your résumé, it's quite extensive and you have a breadth of knowledge and experience that I think will serve you well, has served you well and will continue to serve you well.

As we see increases in the number of adjudications and items coming before the board, what do you see as how technology will assist in the performance of the board itself?

Ms. Avril Farlam: Just like today's appearance, at the Licence Appeal Tribunal we take a digital-first approach and we have parties appear by video conference whenever possible. There is a mechanism to request a different way to appear, which can be accommodated under certain circumstances if certain criteria are met. But as somebody said to me once, why should it be more arduous to appear in front of a tribunal than to order something from an online shopping service? You don't have to drive anywhere and you don't have to go anywhere; you have the comforts of your home or wherever you are—your office—around you.

I think it's important also that it can put people at ease. Not everybody wants to be in a room, or sometimes there are even limitations about people being in a room. For example, I can tell you one case that I had at the Licence Appeal Tribunal. Somebody had to give evidence about something physically traumatic that had been wrought upon them by another party in the room. That person required—actually had been prescribed by one of the physicians attending—that there be a support animal in the room. I can tell you, that was my first experience with support animals in the days that we did in-person hearings. I wasn't sure how that was going to work, but being an animal lover, I was delighted when the dog walked in the room.

That had to be handled a little bit diplomatically, so we discussed some parameters around what would happen if the dog made a noise or if we needed to take a break for the dog or whatever. I can tell you that the dog sat under the desk of the person testifying and didn't make a sound for the entirety of the day. We did take breaks, and that person was put at ease and was able to give the testimony that must have been painful and very wrenching, and it all concluded well.

Mr. Kevin Holland: To repeat my question: Based on your experience, how have you seen the use of technology benefiting the system?

Ms. Avril Farlam: Allowing parties to appear by video conference, I think, brings us into the modern world. It's a technology that most people, frankly, are familiar with,

and when they're not there's advice readily available from others—

The Chair (Mr. David Smith): That's all the time for the government side.

We will now switch to the opposition. MPP Glover, go ahead, please.

Mr. Chris Glover: Ms. Farlam, thank you so much for putting your name forward for this position.

I'm going to start with a few questions about the Licence Appeal Tribunal and some of the challenges that they are facing. The issues that come before the board can be extremely complex and require experience and subject matter expertise in dealing with legal issues and mediation. You've gone through quite a bit of your background. Do you have a background also in alternative dispute resolution practices?

Ms. Avril Farlam: Yes, an extensive background. First of all, let's start with the Small Claims Court. We do a similar thing, almost like a mediation, only there we call it settlement conferences. They're informal meetings, very similar to a mediation-type process, intended to resolve matters without them going on to a trial. So I have extensive experience doing that.

We have a similar process—we use a different name; we call it a case conference—at the Licence Appeal Tribunal, and it serves the same purpose: to allow parties to discuss fully and freely about resolution of the matter before everyone spends more time, money, energy and effort going forward to an actual hearing.

So I have extensive experience in that and—

Mr. Chris Glover: Are those meetings without prejudice?

Ms. Avril Farlam: Yes, they are.

Mr. Chris Glover: You currently sit on the Fire Safety Commission as vice-chair, as well as serving as a judge in the Small Claims Court in the southwest. Can you explain how you will balance the competing needs of these positions as well as being the full-time vice-chair of the Licence Appeal Tribunal?

Ms. Avril Farlam: Well, I am doing it now and have been doing it for a number of years. The full-time position is very similar to what I've been doing all of these eight years that I've been a part-time vice-chair. As I said, I know how to prioritize matters. And it may be that, going forward, one of those terms may expire.

Mr. Chris Glover: How many hearings in each of these positions do you have, say, in a given week?

Ms. Avril Farlam: It depends on the length of the hearing. For example, next week I'm starting a three-day hearing, so that answers that. A few weeks ago, I had an eight-day hearing. At 9:30 this morning, or as soon as I'm free from here—after 9:30—I've got a hearing which is a half-day hearing. So my time is allotted depending on the subject matter, the legislation involved and the particulars of the particular matter.

Mr. Chris Glover: The Licence Appeal Tribunal is currently falling behind on their three key performance indicators for the 2022-23 fiscal year.

“Decisions issued within 90 calendar days from the conclusion of a hearing”—the target is 80%; the actual percentage is 71%.

“Percentage of cases within the 12-month case life cycle”—the target is 80%; the actual percentage is 74%.

“Percentage of cases that are resolved through alternative dispute resolution”—the target is 80%; the actual percentage is 44%.

What expertise or what suggestions do you offer to help the LAT reach these goals?

Ms. Avril Farlam: I can only speak to my involvement there, and I can tell you that every day, I get up and I’m at the Licence Appeal Tribunal and I bring my A game there. I do use case conferences to see if things can be resolved. I do my best to hear matters, issue timely decisions, and I’m committed to the concept of training others to do so, as well.

Mr. Chris Glover: Section 11(d) of the Charter of Rights and Freedoms talks about how everybody has the right to a hearing by an independent and impartial tribunal.

The LAT has come under fire from the Ontario Trial Lawyers Association, with serious conflict-of-interest allegations. It has been reported that there have been LAT adjudicators who have made insurance-friendly decisions and then accepted offers of employment from insurance companies. As a member of the LAT, how will you approach and find solutions for these allegations?

Ms. Avril Farlam: I can only speak to my own involvement. I can tell you that I’m very familiar with the legal test for bias, which the Supreme Court of Canada, in 1978, set out in a case as—and I’ll read it to you: “The apprehension of bias must be a reasonable one, held by reasonable and right-minded persons, applying themselves to the question and obtaining thereon the required information....”

The test is “what would an informed person, viewing the matter realistically and practically—and having thought the matter through—conclude? Would he think that it is more likely than not”—the decisionmaker—“whether consciously or unconsciously, would not decide”—the matter—“fairly.”

Our very own Ontario Court of Appeal—the highest court, as you know, in the province—has said a similar thing, which is, “There is one final, essential element that informs this analysis: the strong presumption of judicial impartiality and integrity. The onus rests on the applicant to demonstrate a reasonable apprehension of bias, and the threshold is a high one.”

0920

It’s well-established for many decades that the presumption of impartiality and integrity applies to administrative decision-makers, including tribunals like the Licence Appeal Tribunal. I can tell you that when I get a case, the first thing I do is make sure that I have no conflicts. I think about that, I look at the list of witnesses, and I make sure that I’m coming to each and every hearing with a fair and open mindset that I would want an adjudicator to have if I was appearing in front of them.

Mr. Chris Glover: In the statement that you read, you mentioned that the onus is on the applicant to make sure that there is no bias. How can the LAT deal with these allegations of bias in adjudicators? How is that dealt with?

For example, if a complainant or a person coming before the tribunal feels that the tribunal adjudicator had bias against them, how can that be dealt with within the LAT?

Ms. Avril Farlam: There’s a system for that in our legal system, and it’s exactly what the court said: The onus is on the applicant. If, in a particular matter, a person feels that, for whatever reason, the adjudicator that may be hearing the matter has a bias, then it’s up to them to bring that forward and establish it with appropriate evidence and submissions. Each case is taken on an individual basis; it’s not possible to make sweeping statements. It’s only possible to raise bias in individual situations and for the applicant to make an effort to bring that forward.

I can tell you that every adjudicator has an obligation, including myself, and I’ve experienced this on several occasions, to look deep into their own soul to look at the facts in front of them to make sure that they’re coming to something with an open mind, and if not, to pass that case on to someone who can deal with it more fairly. It’s an individual assessment on an individual case basis.

Mr. Chris Glover: Okay. Thank you for that. I appreciate this individual assessment on an individual case basis.

I’m just going to make a statement, then I’m going to pass it to my colleague. The reason—I’m glad that you’re making these strong statements against bias, checking your own bias in cases that you’d be hearing. One of the things that has been most disturbing to me as a member of the Legislature here is when the Premier said that he wanted to appoint Conservatives; he did not want to appoint NDP or Liberal judges. The Attorney General, when I asked him about—the Attorney General was also personally interviewing candidates for the chief justice position, and I asked the Attorney General what questions he asked. I said, “Did you ask if they are Conservatives?” The Attorney General said, “That would be crossing the line; that would be improper.” The statement that the Premier has made and the breakdown of the independent appointment process in the judicial system under this government is a cause for great concern to everybody in Ontario who cares about this fundamental right under 11(d) of the charter.

I thank you for making your statements about bias. Unfortunately, the government statements on this have tainted the reputation of the judicial system in this province.

I’ll pass it to my colleague.

The Chair (Mr. David Smith): Okay. It looks like MPP Glover is passing the rest of the time to MPP Pasma. Go ahead, please.

Ms. Chandra Pasma: Thank you very much for being here this morning, Ms. Farlam. I know it’s not the most comfortable process, but it’s an important part of the appointments process in Ontario so that the public can believe that appointments are being made on the basis of merit and not on connections to the government.

I’m going to continue in the same vein as my colleague, talking about concerns of bias within the system, because I am concerned—I appreciate that you, as an individual, approach each case identifying whether or not you have a conflict of interest, doing your best to avoid any bias and deciding the case based on its merits. But you are a vice-

chair of the tribunal, you have said you train new members, and yet you don't seem to recognize that bias is not just an individual thing that can happen on an individual case; it's something that can happen systemically, particularly given the nature of appointments.

We've seen with the Landlord and Tenant Board that if you look at the pattern of decisions, they tend to be landlord-friendly: Landlords get their appointments scheduled well ahead of tenants. Looking at the Licence Appeal Tribunal systemically, decisions tend to be more insurance-friendly, and the people who are making more insurance-friendly decisions are then moving on to employment in the insurance industry.

It may be up to the individual to bring forward a complaint and there may be a high bar to prove bias, but can you understand how somebody appearing before the Licence Appeal Tribunal would have the sense that they are not, in fact, receiving a fair and unbiased hearing?

Ms. Avril Farlam: I can't comment on the perceptions of other folks. I'm sorry.

Ms. Chandra Pasma: Well, you're involved in training new members, so how will you approach this with new members so that they understand their role and the contribution they make to the perception of fairness or lack of fairness with this tribunal?

Ms. Avril Farlam: Well, it's always been part of the fundamental training of new adjudicators and the ongoing training of existing adjudicators to be mindful of bias, to be mindful of conflicts. Adjudicators are trained in that and continue to be trained. It's not something that's new. The Supreme Court of Canada commented on it really clearly in 1978. That's many decades ago. That's something that individual adjudicators like myself—and I only speak for myself—must fundamentally address before they start to hear a case.

Ms. Chandra Pasma: Well, I have to say that I'm quite disappointed to hear that you don't think it matters whether or not people appearing before the tribunal have a sense that they are going to receive a fair hearing or not, because I do think that perceptions of our justice system in Ontario are important and do matter.

I wonder, given this discussion of conflict of interest, do you see it as a conflict of interest that you've been appointed to two tribunals now, given your strong history of donating to the federal Conservative Party—over \$17,900 in the last decade?

Ms. Avril Farlam: No, I do not.

Ms. Chandra Pasma: So you don't see how that could lead to an apprehension of bias on the part of somebody appearing before you?

Ms. Avril Farlam: I don't. But if someone has a concern, they can always raise it.

Ms. Chandra Pasma: Okay. I'm going to ask some other uncomfortable but necessary questions. Have you been a member of the Progressive Conservative Party provincially?

Ms. Avril Farlam: No.

Ms. Chandra Pasma: What about a member of the Conservative Party federally?

Ms. Avril Farlam: No.

Ms. Chandra Pasma: Despite your donations?

Ms. Avril Farlam: Well, I believe individuals have a right to make a donation to the party of their choice, but other than that, that's the end of my involvement.

Ms. Chandra Pasma: Have you ever worked on a Conservative election campaign provincially or federally?

Ms. Avril Farlam: No.

Ms. Chandra Pasma: And did anyone ask to you apply for this position?

Ms. Avril Farlam: No.

Ms. Chandra Pasma: Okay. Thank you, Ms. Farlam.

The Chair (Mr. David Smith): Okay. That concludes the time available. Thank you very much for your presentation. Have a good day.

MS. PATRICIA GREENSIDE

Review of intended appointment, selected by official opposition party: Patricia Greenside, intended appointee as member, Workplace Safety and Insurance Appeals Tribunal.

The Chair (Mr. David Smith): Our second intended appointment today is Patricia Greenside, nominated as member of the Workplace Safety and Insurance Appeals Tribunal.

You may make an initial statement at your discretion. Following this, there will be questions from members of the committee. With that questioning, we will start with the government, followed by the official opposition, with 15 minutes allocated to each recognized party. Any time you take in your statement will be deducted from the time allotted to the government side.

You may go ahead, please.

Ms. Patricia Greenside: Good morning, Mr. Chair and members of the committee. My name is Patricia Greenside. I'm very pleased to be here and honoured to meet with members of the Standing Committee on Government Agencies. I'm here today to offer my services as a full-time member at the Workplace Safety and Insurance Appeals Tribunal, commonly known as the WSIAT.

I've been an adjudicator for over 26 years both provincially and federally. I'm currently a part-time member at the WSIAT and I've been there for the last six and a half years. I'm currently a part-time member also at the Pay Equity Hearings Tribunal, and I've been there for almost five years.

0930

Formerly, I was a full-time member with the Immigration and Refugee Board of Canada, serving both the Refugee Protection Division, and the Immigration Appeal Division for approximately seven years. Prior to that, I was an adjudicator with the residential tenancies, rent review, rent control and landlord and tenant boards for approximately 13 years.

I am highly committed to supporting and promoting the excellent reputation of the WSIAT. In addition to my role as an adjudicator, I've also had the privilege of being invited to take leadership roles and participate in many committees. I'm currently active in more than six committees with WSIAT. I've also been involved in several test pilot projects

relating to alternative hearing methods, such as conducting hearings via Zoom in the early days of the pandemic, and e-records, as well updated digital technology and software to support WSIAT's operations.

I was invited as a speaker at the Access to Justice Symposium for our stakeholders in December 2022. Furthermore, I've been involved in the training of new and current OICs. I've assisted in writing hearing scripts and guidelines as they relate to self-represented parties, and I've assisted the chair by serving on interview panels for hearings of new vice-chairs.

In addition to my career as an adjudicator, volunteering within my community as well as abroad has also been an integral part of my life. Cumulatively, I've spent approximately two months volunteering in Addis Ababa, Ethiopia, at a mission. More locally, I assisted for several years in a women's habitat program, working with at-risk girls, called Girlz Space.

I currently volunteer and have done so for several years with the Law Society Lawyers Feed the Hungry program. I also serve as a director for my condominium corporation and I'm the chair of our design committee.

These volunteer backgrounds keep me grounded and humble, I believe, and they're a constant reminder of the varying backgrounds of people in our community. They also serve to ensure that I remain alert and sensitive to the diverse interests of those in the community that I live [*inaudible*] that I serve. I strive always to be fair and transparent and act with upmost integrity in both my personal and professional lives.

I'm confident that if nominated as a full-time member to the WSIAT, I will be better able to serve, enhance and promote the excellence of the tribunal, their excellent reputation for integrity, fairness, and quality and timely decisions.

Thank you very much for your consideration today.

The Chair (Mr. David Smith): Thank you very much.

We'll now turn to the government side. MPP Sandhu, go ahead please.

Mr. Amarjot Sandhu: Thank you, Ms. Greenside, for appearing before the committee. We appreciate your presentation.

My question is, how do you stay updated with the latest developments in workplace safety and insurance law to make informed decisions?

Ms. Patricia Greenside: In everything that I do, I am deeply committed to learning. I am always reviewing relevant jurisprudence, new case law. I participate in weekly meetings that are offered through the tribunal. We have members' meetings, as well as townhall-type meetings. I participate in training, both from a facilitator point of view as well as engaging in training, both within the tribunal as well as opportunities that are offered outside of the tribunal. I have participated in many different courses and completed many different courses on adjudicative skills, hearing methods, consultant skills, computer programs—every aspect that I am able.

I'm currently enrolled in a program that starts next week related to integrity and ethics, and I believe that I'm also a

very collegial member and often have very vibrant discussions with my colleagues about the cases that we have so that we can make sure that collectively we make the best, fairest decision.

Mr. Amarjot Sandhu: Thank you.

The Chair (Mr. David Smith): MPP McGregor, go ahead, please.

Mr. Graham McGregor: Good morning, Ms. Greenside. Thanks for appearing here today. The Women's Habitat in Etobicoke and the Girlz Space that you mentioned: Could you expand a little bit on what that was, your involvement in it and what specifically you did for the community during that time?

Ms. Patricia Greenside: In that particular role?

Mr. Graham McGregor: In that particular role, yes.

Ms. Patricia Greenside: The Women's Habitat, I volunteered there for five or six years, in Etobicoke. We worked out of the Lakeshore location, where there is a concern with at-risk youth, particularly young girls. I assisted in the implementation of a program called Girlz Space, which was for girls between grades 6 and 8, which was the area where we felt they were most at risk.

We had an after-school program for them one day a week where they would come in, we would bring in outside speakers—that could be the police, it could be public health officials—and we would help guide them with whatever difficulties they may have been having. Sometimes it might have been as simple as helping with their homework. We taught them how to cook. We had a food program. We also offered a food program where they could take food home to their families. We were trying to support them physically, emotionally and intellectually, and help guide them.

I'm honoured to say that two or three of the girls, who are now young women, I still have a relationship with, who have been quite successful in their lives. I'd like to think that, perhaps, to a small degree, what we did helped them.

Mr. Graham McGregor: That is awesome.

I'm good, Chair.

The Chair (Mr. David Smith): MPP Pang, go ahead please.

Mr. Billy Pang: Mr. Chair, through you to Ms. Greenside: a very impressive CV and experience. Basically, it sounds like you know everything in your field. In your opinion, what are the biggest challenges facing the WSIAT today and how would you address them?

Ms. Patricia Greenside: I think the biggest challenge at the WSIAT is something that is intrinsic to all tribunals and boards right now, and that is ensuring that everyone has access to justice, meaning that everyone has a fair and equal opportunity to be provided an opportunity to be heard and to have their cases fairly decided and in a timely manner. I think that the WSIAT is exemplary in that area.

We are a tripartite tribunal. Saying that, it means we have members who are representing the workers, we have members who are representing the employers, and we have a vice-chair. I think that we are very well serving the community in that aspect.

Our chair, who is deeply committed to the excellence of our tribunal, is very forward-thinking, and access to justice has been part of what we do within the tribunal, as well as something that we promote outside of our tribunal. I mentioned earlier that I did speak at an access to justice symposium that we held for our stakeholders as well. We are deeply committed and are always ensuring that there are checks and balances to make sure that we are abiding by that.

Mr. Billy Pang: Thank you for that answer. Chair?

The Chair (Mr. David Smith): MPP Gallagher Murphy.

M^{me} Dawn Gallagher Murphy: Chair, through you: Thank you, Madam Greenside, for being here today. I really appreciate hearing about the Girlz Space. I think that's important work and it really gets down to a lot of our social issues. Starting young and helping our youth is wonderful. But along that social issues line, my question is, given your experience with the Pay Equity Hearings Tribunal as well as the immigration and refugee board, how do you approach cases that involve sensitive social issues?

Ms. Patricia Greenside: I believe that I approach all of the cases that I hear in the same manner. Many cases do have very sensitive issues, but I think it's important that we strive as adjudicators to be fair and free of bias in all of the cases that we hear. In some, there are obvious sensitivities, and in some, there may not be, so I think it's very important that we treat all the cases the same in that manner.

0940

I have a strong commitment to promote access to justice, as we have just said. I do ensure that I exhibit tact and diplomacy in everything that I do—in the way I speak, in the way I question, in the way we write our decisions. It's very important that we're mindful of the diverse cultural differences in our community and in the people we serve, and that we always strive to be very open-minded, fair and free of bias.

I've also received training in my past iterations, as well as more currently, in cultural sensitivity and cultural competency. Immigration and Refugee Board—that was paramount. With the WSIAT, we also are very mindful and have had training sessions on both of those issues as well.

M^{me} Dawn Gallagher Murphy: That's great. I thank you because, really, coming to the table with that unbiased is so critical, and that's where the human intervention really comes in. I guess I comment on that because we talk a lot about—well, I've talked a lot about artificial intelligence and how do we strive for a non-biased approach when it comes to AI? I think you're a prime example—human intervention with non-bias. So thank you very much for what you're doing.

The Chair (Mr. David Smith): We have two minutes, 40 seconds. Go ahead, MPP Harris.

Mr. Mike Harris: We'll use it wisely, Chair.

Thank you so much, Patricia, for being here. I want to ask you a question similar to our previous candidate—because you both have such a depth of experience, and yourself with over two decades of adjudicative experience. What do you think that will help bring to this particular tribunal's mission?

Ms. Patricia Greenside: Well, I've had a very varied experience, starting in 1987, for many different tribunals and boards that I've sat. On all of those boards, prior to the WSIAT, I was sitting as a sole adjudicator, so I was responsible for hearing and deciding the cases independently. I believe that I will bring a wealth of not only knowledge but a varied experience to the WSIAT.

I also want to stress that I have been doing the position. I have been involved in the WSIAT for the last six and a half years on a part-time basis. My job as a full-time adjudicator, should I be successful, will be relatively similar to what I am currently doing. I have often sought out, from our scheduling department, a higher workload; I'm always willing to take more on.

I think that that as well as the experience that I've had in the leadership roles, as I explained earlier, will all help me to be able to promote the ongoing excellence of the tribunal.

I'm also hoping that in taking on a full-time role, I will have an opportunity to branch out even further and meet and hopefully exceed the needs of the tribunal going forward, whatever they may be.

The Chair (Mr. David Smith): That concludes the time on the government side.

We'll now turn to the opposition. MPP Pasma.

Ms. Chandra Pasma: Thank you, Ms. Greenside, for being here this morning. I know it's not always the most comfortable process, but it's an important part of our democratic process, so that the people of Ontario can have confidence that our appointments are being made based on merit and not on connections to the government. It's not a process that the government always allows us to practise. So we're really grateful that you came here this morning to answer our questions.

I have a number of questions around WSIB, given concerns that many workers have that the system is not set up fairly to support workers, as opposed to reducing liabilities for employers—starting with the fact that not every worker in Ontario is covered by WSIB. Only roughly 70% of workers fall under WSIB. I think it's not something that many people know, but we have more than 1.5 million workers in Ontario who have no coverage. One of the things that the NDP has been raising recently is that that includes wildfire fighters, which is definitely a concern as we're seeing forest fires and wildfires increase in Ontario. Do you believe that all workers in Ontario should have coverage under WSIB?

Ms. Patricia Greenside: That's a very hard question for me to answer, in that the WSIAT is completely separate and independent from the WSIB, so we hear the cases de novo. We have no knowledge as to what is happening at the WSIB level nor do I feel like it's something that I am qualified to provide an opinion on. We are completely separate and apart from the WSIB. We are not related in any manner.

Ms. Chandra Pasma: Okay. Another concern that many workers have is the process of deeming, where workers are considered to have a job that they do not in fact have, because they are considered to be capable of doing a job that may not exist in their community—

Mr. Mike Harris: Point of order, Chair.

The Chair (Mr. David Smith): Point of order? Go ahead, MPP Harris.

Mr. Mike Harris: Thank you very much. This is something that we've brought up in committee and in particularly this committee in the past. There are standing orders that preclude lines of questioning around, we'll say, personal political statements rather than focusing on the qualifications of the prospective members of agencies, boards and committees that we have before us. I think you'll find that previous Chairs have ruled in favour of the same point of order that I'm bringing up, and now we've had two lines of questioning from the member of the opposition—

Mr. Graham McGregor: Blatantly partisan.

Mr. Mike Harris: —that are very partisan and also don't focus on the member's qualifications.

I'm going to leave that with you, sir, and hopefully you'll take the matter seriously.

The Chair (Mr. David Smith): Thank you very much. I think it's a valid point of order, and I'm going to ask the member to just try to stay focused on—

Ms. Chandra Pasma: Can I respond, Chair?

The Chair (Mr. David Smith): Yes, go ahead, please.

Ms. Chandra Pasma: I will note that members of the other side have used their time, both this week and last week to make campaign speeches that have nothing to do with the subject of the witness who is appearing before the committee or the tribunal at hand, whereas I think asking questions related to the topic of the tribunal are actually related to the qualifications and the merits of the appointee to be named.

Interjections.

The Chair (Mr. David Smith): Okay. Excuse me. There's no response to the Chair's ruling. I would just like you to stay focused on the topic at hand, and that is questioning the candidate, to make certain that you're asking them questions relating to why they're here today and not make these statements that are—so if we can turn focus on that, it would be great.

Ms. Chandra Pasma: Yes. So, one of the things that you will make decisions on relates to WSIB's practice of deeming and whether or not a person—particularly somebody who lives in the north or in a rural area—does in fact have access to a job that does not exist in their area, does not fit with their skill set. Do you think that the practice of deeming is appropriate? And what kind of decisions would you make in cases that bring the issue of deeming before the tribunal?

Ms. Patricia Greenside: I don't think it would be appropriate for me to express an opinion on this question, given it may be a case that would be before the WSIB for adjudication. I really don't think that I'm able to answer that question.

Ms. Chandra Pasma: Okay. But we've already had multiple conversations this morning of whether or not people appearing before tribunals can have the expectation that they're going to receive a fair and unbiased hearing, and I do think the question of whether or not you think the

practice of deeming is fair would contribute to the sense of a worker who is appearing before the tribunal as to whether or not they are in fact going to receive a fair hearing.

0950

Ms. Patricia Greenside: Well, I can speak to the issue of a fair hearing, as opposed to the deeming issue, since that could be an issue before the tribunal and I would not be able to comment. As I said earlier, I think that we have a lot of checks and balances at the tribunal to ensure that we are providing a fair, equitable hearing for everyone, and I think it's quite notable that it is a tripartite tribunal in that we have representatives for the workers and for the employers, as well as a vice-chair. I do feel that we are fair.

As I said earlier, we are separate and apart from the WSIB, so we are hearing de novo; we base our decisions completely on the evidence and the facts that are before us in the case, not anything that has happened prior to that.

Ms. Chandra Pasma: Okay. Thank you.

Another concern that has been raised by workers is the differential treatment of mental health injuries as opposed to physical injuries: the fact that there's a much higher burden of proof for mental health injuries, which contributes to the stigmatization of mental health as being all in your head or not a valid injury, which I think is a particular concern as we're seeing a serious mental health crisis across the country. Certainly when I knock on doors, it's people of all classes, sectors and ages who are experiencing mental health challenges.

And yet, the burden of proof is much higher for people with mental health challenges. The event has to have been considered objectively traumatic; it has to be the predominant cause, rather than a significant contributing factor. Do you think that this is a fair way of approaching mental health? And do you think that the tribunals should take a more similar approach to mental health injuries to what they take to physical injuries?

Ms. Patricia Greenside: I'm not sure that I'm at liberty to talk about policies. I can tell you that we definitely do hear a number of cases relating to all types of injuries, whether they're physical, emotional or psychological, but as far as the policies and what those are, I really don't think I'm at liberty to discuss that.

Ms. Chandra Pasma: Okay. Thank you.

I'm going to turn over the rest of my time to MPP Glover.

The Chair (Mr. David Smith): MPP Glover.

Mr. Chris Glover: Thank you, Ms. Greenside, for presenting here and putting your name forward for this position. I just want to ask a question: There are some statistics out that one in five, so 20%, of injured workers in Ontario live on an income of less than \$10,000 a year and 40% live on an income of less than \$15,000 a year. As an adjudicator at the workers compensation appeal board, how would you take this into consideration in making decisions?

Ms. Patricia Greenside: Well, you're giving me statistics from the WSIB, and again, we are separate from the WSIB. We base our decisions solely on the evidence and facts in front of us. We are looking at whatever we are

provided relating to the injury that we are considering, so that is not something that I can comment on.

Mr. Chris Glover: Actually, those numbers are from the injured workers group; they're not from the WSIB. But the result of the decision the appeal board makes would have an impact on whether an injured worker would be living in poverty or not. Would you be able to take that or how would you take that into account in making a decision?

Ms. Patricia Greenside: The decisions are based purely on the evidence and the facts of what the situation is, whatever the issue is that we are mandated to decide. That would be the extent.

I'm not sure I'm really following where you're going. Can you rephrase, please?

Mr. Chris Glover: For example, if the appeal rules against a worker and that worker is denied WSIB coverage, then that worker would often be pushed into poverty, as we've seen many workers are with the statistics. Would that have an impact on decisions that you would be making or that the appeal board would be making?

Mr. Mike Harris: Chair, point of order.

The Chair (Mr. David Smith): Go ahead, MPP Harris.

Mr. Mike Harris: Again, we're asking policy questions, we're asking questions about—and I almost feel as though the member is trying to push bias upon the applicant that we have here today by this particular line of question.

It really has nothing to do, again, with her qualifications as a prospective full-time member of the Workplace Safety and Insurance Appeals Tribunal. It's becoming apparent and also quite frustrating that we're not asking questions to the proponent on her creditability, her résumé and trying to understand more about what she's done in the past and how that will inform this committee moving forward.

Again, I'm going to ask that we try and keep the questions relevant and appropriate.

The Chair (Mr. David Smith): Thank you.

MPP Glover, I will certainly suggest that we align our questions to the relevance of the applicant here today, and to make certain that your question is in line with more reasonableness to the applicant's experience and those parts are not sidetracked too far off the lights, okay?

Mr. Chris Glover: Okay. Point of order, Mr. Chair? The point of order has taken about 90 seconds off the clock. Could I have that added back on, please?

The Chair (Mr. David Smith): We don't stop the clock for points of order, so maybe you can keep on moving. It's your time; it's your floor.

Mr. Chris Glover: Okay, thank you. Let's see. So again, I'm going to ask some quick, uncomfortable, but necessary questions. Have you ever been a member of the Conservative Party provincially?

Ms. Patricia Greenside: No, I have not.

Mr. Chris Glover: Federally?

Ms. Patricia Greenside: No.

Mr. Chris Glover: Have you ever donated to the Conservative party?

Ms. Patricia Greenside: I have never.

Mr. Chris Glover: Have you ever worked in a Conservative election campaign?

Ms. Patricia Greenside: I have not.

Mr. Chris Glover: Did anyone ask you to apply for this position?

Ms. Patricia Greenside: No.

Mr. Chris Glover: Okay. Those are all my questions. Thank you very much for putting your name forward.

The Chair (Mr. David Smith): That concludes the time available for this session. Thank you very much for your presentation.

We will now consider the intended appointment of Ms. Avril Farlam, nominated as vice-chair of the Licence Appeal Tribunal—recognizing MPP Harris.

Mr. Mike Harris: I move concurrence in the intended appointment of Avril Farlam, nominated as vice-chair of the Licence Appeal Tribunal.

The Chair (Mr. David Smith): Any discussions? All those in favour? All opposed? That is carried.

We'll now consider the intended appointment of Patricia Greenside, nominated as member of the Workplace Safety and Insurance Appeals Tribunal—recognizing MPP Harris.

Mr. Mike Harris: I move concurrence in the intended appointment of Patricia Greenside, nominated as member of the Workplace Safety and Insurance Appeals Tribunal.

The Chair (Mr. David Smith): Any discussion? All members are ready to vote? All those in favour? All those opposed? That is carried.

The deadline to review the intended appointments selected from the April 19, 2024, certificate is set to expire on May 19, 2024. Is there any unanimous consent to extend the certification by 30 days? I heard a no.

Mr. Chris Glover: Point of order.

The Chair (Mr. David Smith): Yes, go ahead.

Mr. Chris Glover: The purpose of this committee is to review applicants to government positions. If we do not have the hearings, and this is happening very often over the last year, then we do not have an opportunity and the public does not have an opportunity through us to review these positions, and we're not fulfilling our democratic duty in this committee. So I ask the government side to reconsider and actually have the hearing.

The Chair (Mr. David Smith): Thank you very much, MPP Glover. That is certainly not a point of order, and so we'll move to the second matter.

The deadline to review the intended appointments selected from the April 26, 2024, certificate is set to expire on May 26, 2024. Is there unanimous consent to extend the certificate by 30 days? I heard a no.

That concludes our business for today. This committee now stands adjourned.

The committee adjourned at 1003.

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