

**Agriculture, Food and Rural Affairs
Appeal Tribunal**
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PREPARING FOR YOUR HEARING BEFORE THE AGRICULTURE, FOOD AND RURAL AFFAIRS APPEAL TRIBUNAL

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Introduction

These guidelines are designed to assist individuals or groups who are preparing to present a case before the Agriculture, Food, and Rural Affairs Appeal Tribunal (“Tribunal”). They aim to provide answers to common questions received by Tribunal staff.

These are guidelines only and are not a substitute for legal advice. The relevant legislation and regulations and the Tribunal’s Rules of procedure should also be consulted. Legislation and regulations can be provided by the Tribunal upon request and can be found on [e-Laws](#). The Tribunal’s complete Rules of Procedure can be accessed on the Tribunal’s [website](#) or from Tribunal staff.

Role of Tribunal Staff

The Tribunal is supported by three staff members: Two Tribunal Coordinators (one bilingual) and one Administrative Assistant.

Each appeal, application or complaint to the Tribunal is assigned to one Tribunal Coordinator, who is responsible for ensuring that parties are aware of the Tribunal’s procedure and expectations so that proceedings before the Tribunal can proceed in a fair and timely manner. The Tribunal coordinator communicates with all parties to an appeal from the time that an appeal is accepted by the Tribunal. The Tribunal Coordinator is not a representative for either party before the Tribunal; rather, the Tribunal Coordinator is the “face of the Tribunal” and is responsible for responding to parties’ questions and concerns regarding their appeal.

The Tribunal Coordinator cannot provide legal advice or advise any party how to present his or her case. If you need help preparing your case, you should seek legal advice from a qualified legal professional.

The Administrative Assistant is responsible for sending out correspondence on behalf of the Tribunal, scheduling hearing locations, and other administrative duties.

Open Communication

The Tribunal strives to be fair and transparent in its dealings with all parties. We therefore expect that questions or comments from a party (or representative) to the Tribunal will be copied to all other parties. This serves to ensure that all parties are aware of all communications taking place between parties and the Tribunal and is meant to maintain confidence in the fairness of the Tribunal’s proceedings.

Any questions or comments to the Tribunal received by telephone will be shared with all other parties by email or regular post.

Hearing Procedures

Although hearings before the Tribunal are similar to court hearings, they are less formal. Parties appearing before the Tribunal are not required to be represented by legal counsel but are free to have legal representation if they so wish. Certain procedural rules apply to hearings before the Tribunal, and it is useful for parties intending to appear before the Tribunal to be familiar with these procedures. The Tribunal's procedural rules are authorized by the [Statutory Powers Procedure Act](#), the [Ministry of Agriculture, Food and Rural Affairs Act](#) and the [Tribunal Adjudicative Records Act, 2019](#).

When a person files an appeal, application, or complaint with the Tribunal, the matter is assigned to a Tribunal Coordinator. The Tribunal Coordinator responsible for the matter will send out an acknowledgement letter to the parties canvassing the parties' availability for potential hearing dates.

Depending on the scope and complexity of the matter before the Tribunal, the next step may be a Pre-Hearing Conference and Settlement Conference (discussed below), a motion made by either party (discussed below), or the hearing itself. The next appearance date will be set, as will dates for the exchange of materials, motions, etc.

The Tribunal hears a variety of matters under a wide range of statutes including appeals, applications, complaints and referrals. For ease of reading, these guidelines refer to these different types of matters collectively as "appeals" and to the party initiating the matter as the "appellant", except where a specific type of matter is referred to.

Appeals are normally heard by a panel of three or more Tribunal members and presided over by the Tribunal Chair or a Vice-Chair assigned by the Tribunal Chair. The panel hearing an appeal has members with background and expertise in the subject matter of the appeal. The main parties to appeals are the person or group appealing, known as the appellant, and the person who made the decision that is under appeal (the municipality, program administrator, marketing board, the Farm Products Marketing Commission, or the Director), known as the respondent.

The order of presentation at most hearings is as follows:

- The panel Chair outlines the procedures to be followed for the hearing.
- In appeals under the [Drainage Act](#), the engineer who prepared the report under appeal will be asked at the start of the hearing to provide an overview of the project. This introduces the Tribunal to the project and the issues. Questions of clarification are allowed when the engineer has finished this brief presentation. The engineer will then be asked to provide the details of how the assessments and allowances were calculated. Appellants then present their case.
- The appellant presents his or her case to the Tribunal panel first. The appellant chooses the manner of presentation of his or her case. This could involve reading a written presentation, presenting verbal evidence, calling witnesses, and/or presenting documents to the Tribunal. The appellant may wish to outline briefly the matters to be considered by the Tribunal at the beginning of the presentation. The appellant's objective is to present to the Tribunal all facts that are relevant to his or her case and to persuade the Tribunal that the appellant's request should be granted.

- The respondent has the opportunity to question any witnesses who testify on behalf of the appellant. This includes the appellant where the appellant is also a witness. The Tribunal panel may question the appellant and the appellant's witnesses.
- Following the completion of the appellant's case, the respondent will present its evidence. The appellant will then be given an opportunity to question the respondent's witnesses. The Tribunal panel may question the respondent.
- The appellant will have the opportunity to provide evidence in reply to any new matter that is raised during the respondent's presentation of his or her case.
- Following the presentation of evidence, the parties will be given an opportunity to make a closing statement, in which they summarize their case or present their argument before the conclusion of the hearing.
- When the hearing is complete, the parties leave and the Tribunal deliberates the evidence and makes its decision. A written decision with reasons is sent to the parties once the Tribunal has made its decision.
- In applications under the [Farm Registration and Farm Organizations Funding Act](#) normally the applicant presents their case to the panel, the panel asks questions and compares the evidence provided to the criteria specified in the legislation and makes a decision. A respondent is not normally present.
- If at any point in the hearing, a party is unsure of the procedure to be followed, he or she can ask the panel Chair for direction.

How the Tribunal Makes Its Decision

The Tribunal makes its decision based only on the evidence and submissions that are placed before it during a hearing and in accordance with relevant laws. The material you submit to the Tribunal prior to the hearing is not considered evidence until it is tendered as evidence during the hearing, when it is introduced via a witness. More information on what constitutes evidence is provided later, under the heading "Preparing Your Case".

You are responsible for presenting the evidence that supports your case to the Tribunal. If you have appealed to the Tribunal under the [Drainage Act](#) because you think your land has been assessed at an amount that is too high, for example, then you must show evidence that your land should be assessed at a lower amount. You may choose to present this evidence through an engineer who disagrees with the engineer who prepared the report for the drain, or any other way you see fit. The important part to remember is that your claims must be supported by evidence.

The hearing time and date specified on your Notice of Hearing have been set aside specifically for the Tribunal to hear your case, so you should take the time to prepare and present your case fully and completely.

Decisions of the Tribunal can be found on the Canadian Legal Information Institute website www.canlii.org/en/on/onafraat.

Preparing Your Case

Most people who appear before the Tribunal find that they are more comfortable and make a better presentation if they take the time to organize their information, documents and witnesses beforehand. It may be useful to write down the points that you wish to cover or draft a brief summary of what your case is about, to refer to or read to the Tribunal panel at the hearing.

When you first speak to the Tribunal in your opening statement, you should tell the Tribunal what you want it to do, i.e. what decision you would like it to make and the evidence you will show to support that decision.

You should start thinking about how you are going to present your case as soon as possible, as the Tribunal can make orders regarding witnesses and disclosure at a Pre-Hearing Conference and at motions, which are generally held well before the case is heard.

Do not assume that the Tribunal panel has any prior knowledge about your case, your operation or the way your industry operates. Remember also that any material you filed with the Tribunal prior to your hearing does not become evidence in your case until it is submitted as evidence during the hearing. It is best to provide a full picture of your situation to the Tribunal panel so that it has a full understanding of your circumstances and what it is that you are requesting.

To prepare for your hearing you first you should be aware of what the Tribunal does and its processes. It is important to check the appropriate provincial legislation which relate to your appeal. You may also want to read related regulations, the Tribunal's Rules of Procedure and review the Tribunal's website to help you prepare.

You will need to present evidence to support your case at the hearing. Evidence can be anything you think will help support your claims. Some examples of evidence include:

- your testimony
- photos
- documents
- witness testimony

You should make every effort to substantiate any facts or statements that you present to the Tribunal. It is best to present the Tribunal with first-hand knowledge or evidence whenever possible. If you are relying on information that someone else has told you, bring the person who has direct knowledge of that information to testify.

Make sure that you provide copies of your documents that you are going to seek to have entered as evidence to all parties and to the Tribunal before the hearing.

At the end of the hearing, you will make a closing argument that reminds the Tribunal what decision you would like it to make and summarize why the Tribunal should agree with your position. It is a good idea to summarize your evidence and that of the other parties and state why your evidence should be accepted by the Tribunal.

It is helpful for the respondent and appellant to discuss the case before coming to the Tribunal to determine which issues they agree can be resolved and which issues the Tribunal must rule on.

Documents You Plan to Use at Your Hearing

If you have documents that support the case that you are making to the Tribunal, including copies of correspondence, business records, photographs and the like, the Notice of Hearing directs that the parties deliver to each other one copy of all relevant documentary evidence and other materials of any kind whatsoever intended to be filed at the hearing. The Notice of Hearing also directs that a specified number of copies be delivered to the Tribunal by a certain date.

These documents are normally entered as exhibits in the hearing and are kept by the Tribunal, so make sure you have a copy for yourself that you can take away with you after the hearing. If you bring additional documents to the hearing, be sure you have enough copies for the Tribunal and the other parties to the hearing. Note that any documents not disclosed prior to the Hearing may not be accepted by the Tribunal.

Organizing Your Materials

Any documents or other materials you submit to the Tribunal must be organized and labeled in such a way that they can be easily distributed to the panel and identified during the Hearing. Follow these tips to organize your materials:

- Number each page of a multi-paged document for ease of reference.
- Ensure photographs are date-stamped, time-stamped, indicate location, orientation and any other relevant factors (i.e., after a heavy rainfall, during drought, etc.).
- Collate your documents so that each package to be distributed to the Tribunal contains your documents in the order you intend to refer to them during the hearing.
- If you plan to present video or sound evidence, make sure you advise the Tribunal of the equipment you will require to present your evidence to the panel.

Expert Evidence

If you are submitting expert evidence to the Tribunal, either in person or by expert report, tell the other parties before the hearing date and provide them with the expert opinion so they can adequately respond at the hearing without the need to ask for an adjournment.

You will also need to provide a copy of your expert's resume to the Tribunal and to the other parties. A signed "Acknowledgement of Expert's Duty" form ([Form 53](#) on the [Central Forms Repository](#)) must also be provided. This form outlines the duty of every expert witness to provide opinion evidence that only relates to matters within their area of expertise and that is fair, objective and non-partisan. Experts must provide assistance to the Tribunal where such assistance is reasonably required to determine a matter at issue. This duty prevails over any obligation owed by the expert to the party that retained them.

Delivering your Documents to the Tribunal

For matters under the [Drainage Act](#), parties are required to deliver all material to the Clerk of the Municipality who then forwards the material directly to the Tribunal.

For all other matters, you will need to give several copies of your documents directly to the Tribunal in addition to serving copies to the other parties in your matter. Parties must deliver a specified number of hard copies of their materials to the Tribunal. Therefore, per Rule 12.08 of the Tribunal's Rules of Procedure, while documents and other materials can initially be filed with the Tribunal via fax or email, hard copies must follow within 48 hours.

Parties may send their materials to the Tribunal via post or courier to the following address:

Agriculture, Food and Rural Affairs Appeal Tribunal
1 Stone Road West, 2nd Floor NW
Guelph, Ontario N1G 4Y2

Materials can also be hand-delivered to the above-noted address between the hours of 8:00 a.m. and 5:00 p.m. Monday to Friday or to the Shipping and Receiving department located on the first floor, NE between the hours of 8:00 a.m. and 4:15 p.m. Monday to Friday. Anyone attending to drop off materials in-person is encouraged to call the Tribunal ahead of time to ensure that a staff member will be present to accept the package.

Please note that the building located at 1 Stone Road is a secure building and members of the public do not have access to the Tribunal offices, nor will materials be accepted by personnel at the Security and Information desk if Tribunal staff are unavailable and the Shipping and Receiving department is closed.

Also note that the "due date" indicated in the Notice of Hearing or order, is the date by which materials must be received by the Tribunal, not the date by which they must be placed in the mail. Parties who are sending materials by mail must ensure that they allow adequate time for the materials to be delivered to the Tribunal before the due date. Late materials may not be accepted during the hearing.

Adjournments

If you need more time to prepare your case or will not be able to attend your hearing, you can ask that the Tribunal grant an adjournment in your matter. An adjournment is essentially a rescheduling of a hearing to a later date. When a matter is adjourned on short notice, it can cause wasted time and money for other parties. Requests for adjournment should therefore be made as soon as possible. You will need to bring a motion for an adjournment. The Tribunal can provide guidance as to whether a written, teleconference or in-person motion hearing will be held.

When seeking an adjournment, it is a good idea to ask the opposing party's consent to adjourn the hearing to a later date. Contact the opposing party, explain your situation, and ask that he or she consent to adjourning the matter. If the opposing party agrees, you should each write to the Tribunal Coordinator expressing that you consent to an adjournment, and how long you consent to the hearing being adjourned. There is a greater chance that the Tribunal will grant your request if there is consent from the opposing party.

If the opposing party will not consent to an adjournment, write to the Tribunal Coordinator asking that your hearing be adjourned. Directions will be provided as to whether your motion for an adjournment will be heard in person or if it will be determined in writing. You should include in your motion materials details of the reason you are seeking the adjournment and how much more time you will need to move forward with your case. If an adjournment is granted, each party will be notified of the decision and will receive an Amended Notice of Hearing with the new hearing date(s).

Note that unless the Tribunal orders otherwise, adjourning the hearing date does not change the dates on which documents are due to be served and filed. Also note that there may be costs consequences for motions for adjournments that could have been made earlier.

SUMMONS TO WITNESS

There are times when a person who has evidence that will benefit your case is unwilling to testify or is unable to provide evidence to the Tribunal without having been “summonsed”. If one of your witnesses must be summonsed, or if you need to compel an unwilling witness to testify, you can ask the Tribunal to issue a document known as a “summons”.

The Tribunal’s Rules of Procedure deal with summonses in Rule 23, “Compelling Attendance of Witnesses”:

23.01 By Summons to witness

A party who requires the attendance of a person as a witness at a hearing may serve the person with a summons to witness requiring him or her to attend the hearing at the time and place stated in the summons, and the summons may also require the person to produce at the hearing the documents or other things in his or her possession, control or power relating to the matters in question in the appeal that are specified in the summons.

23.02 Summons Request

On the request of a party or a solicitor or agent representing a party, the chair or a vice-chair of the Tribunal may sign and issue, or in the case of urgency, the Tribunal Coordinator may sign and issue, a summons to witness. Before the summons is signed, the party or solicitor or agent shall complete the summons and include the name of the witness. See “[Form 1 – Summons](#)” form, which can be found on the Ontario Central Forms Repository.

23.03 Service and attendance money

A party requesting a summons to witness shall arrange for personal service of the summons on the witness and, at the time of service, attendance money in the amount provided under the Rules of Civil Procedure shall be paid or tendered to the witness.

23.04 Affidavit of Service Required

An affidavit proving the service of the summons on the witness shall be filed with the Tribunal.

Steps for obtaining a summons are as follows:

1. If you require a witness to be summonsed to testify on your behalf, you must fill in a "[Form 1 – Summons](#)" form, which can be found on the Ontario Central Forms Repository.
2. Send the completed "Form 1 – Summons" form to the Tribunal.
3. The Tribunal will issue the summons where appropriate and will send the issued summons to the party who has requested the summons.
4. The party who has requested the summons is responsible for personally serving the summons on the person summonsed. The person who serves the summons should note the time, date, and location where the witness was served with the summons.
5. The party who has requested the summons is responsible for paying the required fees and allowances. Note that Rule 34.04(5) of the [Rules of Civil Procedure](#) made under the [Courts of Justice Act](#) state that fees are to be paid according to Tariff A of the [Rules of Civil Procedure](#). Tariff A sets out the fees to be paid to a summonsed witness as follows:
 1. Attendance allowance for each day of necessary attendance: \$50.
 2. Travel allowance, where the hearing or examination is held,
 - a. in a city or town in which the witness resides, \$3.00 for each day of necessary attendance;
 - b. within 300 kilometres of where the witness resides, 24¢ a kilometre each way between his or her residence and the place of hearing or examination;
 - c. more than 300 kilometres from where the witness resides, the minimum return air fare plus 24¢ a kilometre each way from his or her residence to the airport and from the airport to the place of hearing or examination.
 3. Overnight accommodation and meal allowance, where the witness resides elsewhere than the place of hearing or examination and is required to remain overnight, for each overnight stay: \$75.

The [Rules of Civil Procedure](#) can be accessed online at <https://www.ontario.ca/laws/regulation/900194> .

Written Notice of Constitutional Question

If you are a party to an appeal and you intend to raise a question about the constitutional validity or applicability of legislation, a regulation or by-law made under legislation, or a rule of common law, or where you claim a remedy under subsection 24(1) of the [Canadian Charter of Rights and Freedoms](#), you must file a written notice with the Tribunal and serve it on the Attorney General of Canada and the Attorney General of Ontario.

The Notice of Constitutional Question must contain the following information:

- a detailed explanation of the constitutional question raised, including the material facts applicable to your situation;
- the constitutional provisions relied upon, or the legal basis for the argument, identifying the nature of the constitutional principles to be argued; and
- the remedy you are seeking.

Procedure for Requesting Party or Participant Status

Anyone who wishes to be named as a Party or Participant must file a motion with the Tribunal and serve it on the other parties as per Rule 8. The motion should contain the following information:

- whether the person is seeking Party or Participant status;
- a statement of the issues and material facts relevant to the subject matter of the appeal that the person intends to present at the main Hearing; and
- whether
 - the person's participation is likely to make a relevant contribution to the Tribunal's determination of the issue at hand;
 - the person's interests may be directly and substantially affected by the Hearing or its result;
 - the person has a genuine interest, whether public or private, in the subject matter of the proceeding.

Upon receiving a written request to be named as a Party or Participant, the Tribunal Coordinator will set a time and location for a motion hearing to determine whether the requestor will be named as a Party or a Participant to the proceeding. Alternately, the matter may be determined entirely in writing on the Tribunal's direction.

REPRESENTATIVES

A party to a proceeding before the Tribunal is entitled to be represented by a representative and/or a spokesperson. A person is a spokesperson when he or she is one of a group of applicants, respondents, or other party and is speaking on behalf of the group party. A person is a representative when he or she is presenting the case of a party or group party without being a party themselves. A lawyer or paralegal who presents the case of a party, for example, is a representative.

A party may change his or her representative during the proceedings; however, a change in representation should not unduly delay the proceedings. Furthermore, parties are expected to inform each other any time they obtain representation or change representatives. Parties are also expected to share their representative's contact information with each other so that each party knows where to send disclosure, who to contact for settlement discussions or offers, etc.

A party who wishes to have a representative must also give express written authorization to the Tribunal to communicate with the named representative. The specific wording of the authorization is in the discretion of the parties, but could read as follows: "I, (name of party) hereby authorize the Agriculture, Food and Rural Affairs Appeal Tribunal to communicate with and discuss my case with (name of representative)." The authorization must be signed and dated and contain the representative's contact information, including address, email address, and telephone number. An authorization to the Tribunal can be revoked in writing. The authorization and revocation can be scanned and sent to the Tribunal by email, faxed, or mailed by post.

OPEN HEARINGS

Hearings before the Tribunal are public and the documents entered as evidence at a hearing are generally available to the public, as are notices of hearing, decisions and orders. This reflects the "open hearings" constitutional principle and the presumption of public access. You should consider the need for confidentiality of the documents you provide. If you have confidential information that is vital to your case, you can ask that the confidential information be provided at the hearing "in camera" (everyone but the parties, Tribunal and staff must leave the hearing room) and that any written confidential information be sealed in the file. You will have to persuade the panel that the information warrants a confidentiality order due to sensitive personal or financial information that is of such a nature that the public interest or the interest of a person served by avoiding disclosure outweighs the desirability of adhering to the principle that the record be available to the public.

HEARINGS NOT TRANSCRIBED

The Tribunal does not have a court reporter record its proceedings and therefore no transcript of the proceedings will be produced. Parties may arrange for a court reporter to record the proceedings, at their own expense, but must give the Tribunal five days' notice of their intention to do so. See Rule 21 of the Tribunal's Rules of Procedure.

LANGUAGE AND HEARING SITE

Hearings are normally conducted in English in a room provided by the Tribunal or the municipality where the parties reside. If you require French language services or physical accommodation, you must inform the Tribunal staff as soon as possible so that your needs can be provided for at the hearing.

STAYS

An appeal to the Tribunal operates as a stay in the matter under appeal subject to the right of the Tribunal to limit or define the scope of the stay.

COSTS OF THE PROCEEDING

Parties before the Tribunal often wonder how much the proceedings will cost them. Although there is no fee to file an appeal, application, or complaint, parties still incur costs when they participate in proceedings before the Tribunal. These costs can range anywhere from one day's missed work to attend the hearing, to tens of thousands of dollars for legal fees, expert witness' fees, etc. Where your expenses fall on this spectrum will depend on the complexity of your case, the length of the proceedings, the number of parties, how organized you are, whether you have summonsed any witnesses, etc.

Keep in mind that you may also have collateral expenses, such as transportation to and from the hearing.

In addition to monetary expenses, proceedings before the Tribunal will take time and energy. If you represent yourself, you will need to take the time to research the law, gather and organize your evidence, and prepare your case to present it to the Tribunal. You will also need to think about what kind of evidence the other party will present and prepare questions for cross-examination.

ORDERS FOR COSTS

The Tribunal may make an order for "costs" in any proceedings before it. Costs are a sum of money ordered to be paid by one party to another for expenses incurred for preparing for and attending at the proceeding. The sum of costs may include such things as preparation and hearing time for counsel, consultant and witness fees, and travel expenses. It does not include business or personal financial losses. If a party's conduct caused such losses, however, this conduct may be considered in making a cost order.

A cost order may be made if a party requests it or if the Tribunal is of the opinion that a party has acted inappropriately, as outlined in Rule 34.04. Cost orders and the amount awarded are to discourage conduct that wastes a great deal of the Tribunal's and parties' time and resources. Note that further cost stipulations apply to proceedings under the [Drainage Act](#). (Discussed below)

For the most part, each party pays their own costs incurred for the hearing. However, the Tribunal has adopted a Rule of Procedure which allows it to award costs in proceedings initiated under any of the statutes it deals with. Costs will only be awarded in situations where a party has acted clearly unreasonably, acted in bad faith or acted in a frivolous or vexatious manner.

An order for costs is very rare. Recovery of costs is not standard before the Tribunal. It is only where the Tribunal finds that a party wrongly brought the appeal or participated unacceptably in prehearing or hearing events, that an award of costs will be made. Only a party may make a request for costs.

THERE MUST BE NO THREATS TO POTENTIAL APPELLANTS THAT COSTS WILL BE REQUESTED. This could prevent opponents who have different but sincerely held opinions from exercising their right to appeal. The governing legislation provides this appeal right. If this is abused there are other remedies available, such as dismissal without a hearing.

APPEALS UNDER THE *DRAINAGE ACT*

While most appeals to the Tribunal are begun by sending a description of the matter under appeal directly to the Tribunal, appeals to the Tribunal under the [Drainage Act](#) are filed by filing a notice of appeal with the Clerk of the initiating municipality.

The Municipal Clerk acts as the Clerk of the Tribunal in [Drainage Act](#) matters and is required by the legislation to assist the Tribunal in handling appeals. Some of the things the Clerk of the Tribunal will do are: communicate with appellants and all assessed and compensated landowners identified in the engineer's report in order to determine availability for a hearing; send out copies of all appeals filed with the Tribunal to all appellants and all assessed and compensated landowners; send out all copies of Notices from the Tribunal to all appellants and all assessed and compensated landowners; send out copies of the final decision or order of the Tribunal to all appellants and all assessed and compensated landowners, etc.

COSTS UNDER THE DRAINAGE ACT

Sub-section 98(10) of the [Drainage Act](#) states that "the costs of any proceedings before the Tribunal shall be paid by or apportioned between the parties in such a manner as the Tribunal considers proper, and where costs are ordered to be paid, the order for payment thereof may be filed in the Small Claims Court and is enforceable as a judgment or order of that court".

Sub-section 98(11) of the [Drainage Act](#) states that "the costs chargeable or to be awarded in any proceedings may include the costs of witnesses and of procuring their attendance, the costs of secretarial staff and such other costs as the Tribunal may direct".

It is important that you be aware that the Tribunal must apportion costs of proceedings that come before it under the [Drainage Act](#) because it means that an appeal to the Tribunal is likely to increase the overall cost of the drain under appeal. Unlike other Tribunal matters, in a [Drainage Act](#) matter costs may be apportioned despite a lack of unreasonable, frivolous, vexatious or bad faith conduct.

If the Tribunal orders a party or parties to any proceeding to pay costs, the order for payment can be filed with the Small Claims Court and is enforceable as an order of that court. The person seeking enforcement of the costs order is responsible for filing the order for payment with the Small Claims Court; the Tribunal is not responsible for filing the order on a party's behalf.

APPEALS UNDER THE AGRICULTURAL PRODUCTS INSURANCE ACT, 1996

Anyone filing an appeal to the Tribunal under the [Agricultural Products Insurance Act, 1996](#) must send a copy of their notice of appeal to the respondent at the time of filing. The respondent in appeals filed under the [Agricultural Products Insurance Act, 1996](#) is Agricorp. The contact information for Agricorp is:

Agricorp
1 Stone Rd. West
Box 3660 Stn. Central
Guelph, ON N1H 8M4

Tel: 1-888-247-4999 (Mon. to Fri., 7 to 5)
TTY: 1-877-275-1380

APPEALS UNDER SECTION 16 OF THE MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS ACT

Anyone filing an appeal to the Tribunal under the [Ministry of Agriculture, Food and Rural Affairs Act](#) must send a copy of the written notice of appeal filed with the Tribunal to the Director, Commission, local board or marketing board from which the disputed order, direction, decision, policy, or regulation stems.

Note that the Tribunal will refuse to hear an appeal unless the appeal complies with subsection 16(5) of the [Ministry of Agriculture, Food and Rural Affairs Act](#), which states:

- (5) No appeal may be taken from an order, direction, policy, decision or regulation of a local board or a marketing board unless,
 - (a) the appellant has first applied to the local board or marketing board for a hearing and the local board or marketing board has refused to grant, in whole or in part, the relief requested by the appellant or has not decided the matter within sixty days of the application for a hearing; or
 - (b) the appellant and the local board or marketing board have waived their respective rights under clause (a) in writing. R.S.O. 1990, c. M.16, s. 16 (5).

Note also that the Tribunal may refuse to hear an appeal or, after a hearing has commenced, refuse to continue the hearing or make a decision if it relates to any order, direction, policy, decision or regulation of which the appellant has had knowledge for more than one year before the notice of appeal is filed or, if in the Tribunal's opinion, the subject matter of the appeal is trivial; the appeal is frivolous or vexatious or is not made in good faith; or the appellant does not have a sufficient interest in the subject matter of the appeal.

A decision of the Tribunal in an appeal under subsection 16(1) or (2) of the [Ministry of Agriculture, Food and Rural Affairs Act](#) becomes final thirty days after it is received by the Minister or at the expiration of such longer period as the Minister may determine during such thirty-day period.

The Minister has the power to vary or rescind the decision of the Tribunal, substitute his or her decision for the decision of the Tribunal, or require the Tribunal to hold a new hearing.

AFTER THE HEARING

The legislation under which an appeal is brought should be consulted to determine if there are any appeal rights. For example, certain decisions made under the [Drainage Act](#) may be appealed to the Drainage Referee. Parties are referred to Sections 101 and 106 of the [Drainage Act](#).

As well, decisions made pursuant to the [Farm Products Marketing Act](#) or the [Milk Act](#) may be reviewed by the Minister of Agriculture, Food and Rural Affairs. Some other matters may also be appealed.

All decisions by the Tribunal are subject to Judicial Review by the Divisional Court of Ontario.