



Assessment Review Board and Ontario Municipal Board 2017 Value-for-Money Audit

Why We Did This Audit

- The two Boards are adjudicative agencies and part of Environment and Land Tribunals Ontario. Our Office has never audited either Board.
- **Assessment Review Board (Review Board)**—Ontarians pay about \$27 billion a year in property tax. Property owners can appeal to the Review Board if they disagree with their property assessment or believe their property is incorrectly classified based on current use.
- **Ontario Municipal Board (Municipal Board)**—The Ontario Government's review of the Municipal Board, which began in June 2016, did not examine operational aspects of the Municipal Board, which was the primary focus of this audit.

Why It Matters

- The **Review Board** is a key player in the Ontario property tax and assessment system, hearing appeals mainly about residential and non-residential property assessments and classifications.
- The **Municipal Board** hears appeals related to a wide range of land-use planning matters including the authority to overrule municipalities' Official Plans (for land use) and zoning bylaws.
- Both Boards need to have effective systems and procedures in place to ensure their resources for handling disputes are managed in an efficient and cost-effective manner, and contribute to a fair, accessible and transparent justice system for all Ontarians.

What We Found

Assessment Review Board

- Over the past three assessment cycles up to 2016, the total number of property assessment appeals received by the Review Board has decreased 34% from approximately 88,400 in the 2006–08 cycle to approximately 58,290 in the 2013–16 cycle. However, the Review Board still had a backlog as of March 2017 of about 16,600 unresolved appeals out of 58,290—almost three times more than the 5,830 outstanding appeals backlog, or 10% of appeals received in the 2013–16 cycle, that it would consider as acceptable.
- During our audit, we noted that the number of appeals received in a year has been overstated as much as 507%. For example, in 2015/16, the number reported publicly was 32,000; however, only 5,272 new appeals were received.
- Many property owners wait years for decisions (as of March 2017, over 1,800 appeals have been outstanding for more than four years), which delays owners from receiving a timely property-tax refund if a decision is finally rendered in their favour. As well, delays in resolving high-dollar assessment appeals impair the ability of small municipalities to manage their fiscal affairs because property taxes account for a significant portion of their tax bases. For example, two smaller municipalities were required to refund a total of \$10.7 million in property taxes previously paid by the property owners during the 2009 to 2012 taxation years.
- Review Board members use their professional judgment, based on evidence presented, and the majority of decisions are given orally by a single board member. Oral decisions account for about 80% of all decisions and are not subject to peer quality-assurance review. As well, the Board does not audio-record hearings to allow for follow-ups on complaints, or other reviews.

Ontario Municipal Board (Municipal Board)

- Despite 80% of decisions being issued within 60 days after the end of a hearing, many others took almost a year to be made. Of the 1,087 decisions issued in 2016/17, 218 of them took between 60 days and a year to be made.
- Some municipalities raised concerns about whether Municipal Board members were rendering fair and unbiased decisions. Three municipalities told us that each spent between \$1.7 million and \$4 million in taxpayer dollars from 2010 to 2016 on external legal fees and expert witnesses to defend their Official Plans. These plans had already been approved by their elected councils and the Province.
- The Municipal Board informed us that cases were assigned to board members based on factors such as members' background and experience. In the majority of cases, only one member was assigned to hearings, and one-member decisions could be subjective. As with the Review Board, audio-recording of hearings were unavailable at the Municipal Board for subsequent review, if needed.
- In 2016/17, the Municipal Board scheduled only 44% (186 of 421) of minor variance cases for a hearing within 120 days, well below its target of 85%. For more complex cases that were closed in 2015/16 (the most recent available data), the appeal process timeline ranged from 10 months to almost seven years from case received to case closed.

Conclusions

- The **Assessment Review Board** has complied with its legal obligations and responsibilities to handle property assessments and other disputes, but did not always do so efficiently, as evidenced by the continuing backlog of appeals. In addition, it did not have the data necessary to assess its cost-effectiveness.
- The **Ontario Municipal Board** has complied with its legal obligations and responsibilities to handle land-use planning and other disputes, but its operations need improvement to help it function more efficiently and cost-effectively before it transitions to a new tribunal under pending legislation.

To view the report, please visit www.auditor.on.ca