

# TRIBUNAL WATCH ONTARIO

**August 6, 2020**

## **Concerns Arising from the Recent Associate Chair Appointment to the Human Rights Tribunal of Ontario**

In May, Tribunal Watch Ontario reported on the crisis in the adjudicative tribunal system in Ontario. It noted that Tribunals Ontario had lost almost half of its most experienced adjudicators and the tribunals within it could no longer fulfil their mandate to adjudicate in a variety of areas such as human rights. Specifically, the Human Rights Tribunal of Ontario (HRTO) was down to 22 full and part-time members from the 57 who were in place on April 30, 2018.

At the time, Tribunal Watch Ontario also called attention to the leadership vacuum caused by the departure of the then Executive Chair of Tribunals Ontario and the failure to reappoint or appoint Associate Chairs of the various tribunals within Tribunals Ontario. In June, Tribunal Watch Ontario issued a second Statement expressing concern about the interim appointment of Sean Weir, a corporate/commercial lawyer with no apparent tribunal or adjudicative experience, to head Tribunals Ontario. Since then, there has been a further troubling appointment at the most senior level of the HRTO.

On June 23, 2020, Cabinet approved Tamara Kronis' OIC, appointing her the Associate Chair of the HRTO. The Associate Chair acts as the Chair of the HRTO. This is what the Government says about Ms. Kronis' qualifications for the job:

*Tamara Kronis, of Toronto, is the founder and CEO of Studio1098, an Independent Director Toronto Hydro Corporation, and a member of the Law Society of Upper Canada. Her community involvement includes serving as a lawn sign chair for John Tory's Mayor Campaign.*

This brief description does not make it clear that Studio 1098 is a jewelry store, which Ms. Kronis operates as a jeweler, gemologist and goldsmith. Ms. Kronis has not practised law since 2007. According to her LinkedIn page, she had a stint at EGALE in 2006-2007 (no precise dates are given), but most of her brief legal career was spent in the corporate law field.

The government statement noted her political activity in John Tory's Mayor campaign, but fails to also note that she has made donations to the Progressive Conservative Party of Ontario and the Conservative Party of Canada, the latter coming as recently as January 31, 2020 (\$1,625).

Tribunal Watch is concerned about this appointment for the following reasons:

- There is nothing in the information available to Tribunal Watch that suggests that Ms. Kronis is qualified for the position [see detail below]. She has no adjudicative experience, and appears to have no litigation experience in the administrative law field. She has not practised law for more than 13 years. It is difficult to believe that there were not other, better-qualified candidates.
- As Associate Chair, she will be reporting to the new Interim Executive Chair, who himself has no adjudicative or administrative law experience and no subject-matter expertise.
- While past political involvement should not disqualify an otherwise qualified candidate for an adjudicative position, it is a problem where an individual, on the government's own record, lacks the skills required for the position, especially a position as powerful as that of an Associate Chair.

In this connection, we note that subsection 32(3) of the *Human Rights Code* requires that members of the HRTO be selected according to specified criteria relating to their ability to do the job:

1. Experience, knowledge or training with respect to human rights law and issues.
2. Aptitude for impartial adjudication.
3. Aptitude for applying the alternative adjudicative practices and procedures that may be set out in the Tribunal rules.

And, while the job description for this particular Associate Chair position does not appear to be publicly available, we note that the last available version (August 2017) included the following duties, all of which seem to be directly relevant today:

- provides jurisprudential leadership...and acts as the key jurisprudential resource;
- improve[s] existing rules and processes to advance adjudicative excellence and access to justice;
- mentors and develops Vice-Chairs and Members by providing oversight and advice;
- ensures high quality, consistent, principled decisions and well-written reasons;
- develops effective adjudication strategies to deal with the tribunal's caseload;
- [c]onducts hearings and mediation, and demonstrates leadership as an adjudicator or a mediator.

And, pursuant to that job description, the core qualifications for the position, which again seem directly pertinent today, include having “all the qualifications of a [tribunal] Member **at a superior level, plus**” [emphasis added]:

- Thorough understanding of the administrative justice system, and relevant legal principles;
- Comprehensive practical knowledge of dispute resolution practices to mentor and coach others, to recommend options for change, and to design new processes or change existing ones;
- Superior dispute resolution and analytical skills to resolve complex matters involving multiple interests, under public scrutiny.

Considered in relation to these duties and qualifications, Tribunal Watch Ontario is deeply troubled that Ms. Kronis has been selected by the government as the HRTO's Associate Chair. The implications are very serious for the ongoing effectiveness and credibility of the tribunal that Ontarians rely on to protect their fundamental rights. But as well, there are two immediate issues where important principles are at risk.

The HRTO remains woefully understaffed. As the vacancies begin to be filled (competitions are underway) Ms. Kronis would have direct involvement in the process for selecting them and recommending their appointment to the Executive Chair. As well, she would almost certainly be directly involved in assessing the performance of all existing and future tribunal members as is required by the Tribunals Act when they come up for consideration for reappointment, something that happens on a regular basis. This would include assessing their subject matter expertise as well as their conduct of hearings and mediations. These assessments directly affect the tribunal's adjudicative competence each time they are made, and they are assessments that Ms. Kronis seems unqualified to make.

For more information, please see our previous Statements of Concern at [www.tribunalwatch.ca](http://www.tribunalwatch.ca)