



TORONTO OMBUDSMAN

THE OFFICE OF LAST RESORT

ANNUAL REPORT 2010



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Office of the
MBUDSMAN

February 1, 2011

His Worship Mayor Rob Ford and Members of Toronto City Council

I am pleased to submit my 2010 Annual Report to City Council for the period January 2, 2010 to December 31, 2010, pursuant to section 173 (2) of the *City of Toronto Act 2006* and the City of Toronto Municipal Code Chapter 3.

Yours sincerely,

FIONA CREAN

Ombudsman
City of Toronto

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WE LEARNED

OMBUDSMAN'S MESSAGE

We are living in a time of great stress. People are worried about their future; they fear for their jobs, their homes and the future of their children. They have short fuses and little patience for nonsense. They demand to be treated with respect. In such a time, residents of Toronto rightly expect a high standard of service when they deal with City staff. This expectation is far broader than just the fairness of the outcome. People also expect a high level of care and fairness in the process, in how decisions are made; and they want fair access to the process as well as an equitable result.

Like all bureaucracies, governments find it difficult to adapt quickly to changing times. Public servants often react to criticism by putting procedures in place that slow things down even more. They often will not give front-line employees dealing directly with people the power to solve their problems. They become risk averse and find it easier to say “no” instead of saying “yes” to a new way of solving a problem. Sometimes, they miss the forest for the trees entirely.

The effort involved in changing this reality is real and significant. It is always easier to focus on “what it means for me” rather than recognizing that others might see it differently. It is harder to understand the other, the big picture, to develop creative ways to resolve differences and to find solutions that work for everyone. And yet, there is so much potential.

The City needs to be more responsive and provide better lines of communication with residents at the front line. This will require a greater delegation of authority. It will not be easy as old habits die hard. Some public servants are simply unwilling to share information and power. I believe that once residents trust that they will receive great service from their City, managers will feel less defensive. They will be able to spend less time and money justifying their actions, and redeploy those resources to improve services.

All public servants must serve everyone, fairly and accountably. Municipalities are under the most exacting scrutiny of all because they are the governments closest to people's daily lives. So, the challenges that public servants face are huge.

In my work, I see it all: from conscientious public servants who work hard, go the extra mile and take the public interest to heart every day, to individuals who seem to have lost sight of any sense of service and personal responsibility, and whose deepest attachment is to their narrow self-interest. I see poor communications, shoddy customer service, substandard record-keeping, decisions being made without explanation and far too many unjustifiable delays.

This is what must change.

No one would agree more than those who make the effort to deliver stellar service every day, the everyday heroes who are overshadowed by the malaise that has crept into parts of Toronto's public service.

The public is demanding timely, high-quality service at a time when resources are at a premium. Governments, like other organizations in society, must reinvent themselves. It is not enough to decide to change; there must be an explicit plan. We no longer have the luxury of indulging bureaucratic silos and turf wars.

Public service is most accessible to those who can navigate the established processes. It favours those with education, those who can meet the bureaucracy on its own terms. But we must remember that everyone in the city has a right to fair service. This includes those who are too poor, too powerless, too old, too young, too disabled or simply too inexperienced to navigate the complex systems of power and bureaucracy.

The word ombudsman is Swedish and means “representative of the people.” We are here to advocate for fairness for everyone. It is my abiding commitment to level the playing field for the most marginalized and the most vulnerable, and to seek the resources to do so.

Although we now have been open for 20 months, and have handled complaints from every ward in the city, it is obvious that we have far to go.

Our investigations are making waves, as they should. We have lifted the lid on a Pandora’s Box of problems, and it will get worse before it gets better.

A year ago, I called for complaint systems and service standards, something most areas of the City have begun but have a distance to go. In the coming year, I promise to vigorously pursue these requirements for basic public service, and to assist City Council in holding the administration accountable for its directives.

I want to thank those hundreds of residents who have shown the courage to come forward with their complaints, thereby contributing to the improvement of public service. On behalf of my team, I also want to thank those every day heroes—the many public servants who have gone the extra mile.

I wish to acknowledge the outstanding efforts of my staff. I continue to learn from them about hard work, creativity and determination to make a difference in the lives of Torontonians. In light of the challenges we face, their professionalism and resilience are humbling.



A handwritten signature in black ink, appearing to read 'Fiona Crean'.

FIONA CREAN
Ombudsman of Toronto



REC

COMM

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The Ombudsman has made six key recommendations this year.

WE RECOMMEND

OMBUDSMAN RECOMMENDATIONS: PAST AND FUTURE

In January 2010, City Council adopted the Ombudsman's first annual report and endorsed my recommendations:

1. Ensure that every area of the Toronto Public Service that interfaces directly with the public develop and publish internal complaints systems and procedures in 2010.
2. Ensure that the Toronto Public Service publish their customer service standards in 2010.

1: Complaints Systems

For some time now, residents wishing to complain to organizations such as the Toronto Transit Commission and the Toronto Community Housing Corporation have had easy access to complaint systems. However, in many cases, the City's divisions and agencies either have no such system in place, or provide only minimal information on how to register a complaint.

Since I became Ombudsman in November 2008, I have made it a priority to work with the Toronto Public Service to develop, improve and post step-by-step complaint processes so that members of the public can easily exercise their right to file a complaint.

However, despite City Council's formal adoption of my recommendations, the City Manager's written instructions to divisions to implement them—and some recent and encouraging progress—as this report goes to print, the City's complaint systems remain incomplete and its commitments to my Office remain unfulfilled.

Here is a timeline of progress at time of writing

January 2010

- City Council adopts my recommendations
- The City Manager reminds his senior staff in writing to implement them

January-July 2010

- The Ombudsman's office follows up more than a dozen times through meetings, speeches to senior staff and other forms of communication
- Several divisions consult the Office, and develop or improve their complaint systems

August 2010

- The City Manager informs me that 23 of 25 divisions have posted complaint systems on their websites
- On review, the Office finds that five of them require improvements and four more are inadequate, lacking clarity in description, process, standards and timelines

September 2010

- The Office publishes a Complaint Handling Guide to further assist the public service in developing complaint systems. The Guide cites the City Clerk's office, Toronto Community Housing Corporation, Toronto Employment and Social Services, and Toronto Public Health as best practice systems

October-November 2010

- In a series of meetings, we give senior managers individual feedback and invite them to use our resources with the understanding they will complete their systems and post them by the end of December 2010
- My Office discovers that the 311 service is developing a corporate complaints policy best practices document to guide the divisions in developing their own complaint resolution processes; 311 expects to complete its draft by the end of 2010 and undertakes to share it with my Office (at time of going to print in January 2011 that has not materialized)
- By November 2010, 76% of the City's divisions post a description of their complaint process, a 32% improvement in compliance from the beginning of the year but still well short of the goal of 100%

WE RECOMMEND

2: Customer Service Standards

The City continues to post its existing customer service standards strictly on its internal website. Despite my recommendation, they have not yet been posted for the public.

In November 2010, the City Manager informed me that customer service standards would be posted on the City's website early in 2011. While I appreciate that the City is working on a new and more comprehensive set of standards, I see no reason why, as a departure point, the very simple standards that are currently posted on the internal website cannot be published. City Council and residents can judge for themselves the City standards I have reproduced here:

“ The City's customer service standards of returning voice messages within one business day (24 hours) are applicable to internal calls as well. Ignoring a call or e-mail from a staffer is unacceptable. Please follow the following basic customer service practices as part of your regular business practice:

- If you're at your desk, answer your telephone. This results in fewer calls overall and better outcomes for the caller, whether that caller is a City resident or staff person.
- Return calls – always. Leaving calls unanswered does not inspire confidence or support the image of a professional, responsible organization. Return calls within one business day. This doesn't mean that you have to supply all of the information requested. Simply acknowledge the call and let the caller/sender know that you are looking into the [matter].
- Clear your voice mail box regularly. Hearing the 'Sorry, this mailbox is full' message leaves a caller at loose ends and even angry.

- Record a suitable personal greeting. The personal greeting should be courteous and give the caller as much information as possible.
- Invite callers to leave a detailed message that way you can call them back with an answer rather than a question.
- Be sure to activate a vacation message on your e-mail and record an extended absence message on your phone if you are going to be away for a day or more. It is a good idea to provide a co-worker's name as backup while you are out of the office.
- Be helpful. If you can't answer a caller's question, try to find the answer or the right contact for them. Don't just transfer the caller blindly and hope that the next staff member can help.

City of Toronto Customer Service Standards for voicemail and e-mail:

- Voicemail response delivered by the next business day (24 hours).
- Telephone service delivered through a maximum of two people. Every staff person should be willing to search out the appropriate contact person and advise the caller.
- E-mail protocols are in development. Division Heads and Deputy City Managers will develop protocols to address operational needs and at the same time recognize the importance of excellent customer service. ”

Recommendations Going Forward

The first three recommendations that follow relate to what was adopted by City Council in January 2010, which remain unfulfilled commitments on the part of the Toronto Public Service. The remaining three recommendations are made for Council's adoption and the Toronto Public Service's implementation in 2011.

1. That divisions still without operational complaint systems complete them immediately, according to the feedback from the Ombudsman, and post them on their divisional websites in an easily accessible location no later than March 2011.
2. That the Toronto Public Service immediately publish its existing customer service standards, updating them in a timely fashion as necessary.
3. That the City Manager report to City Council on the status of recommendations 1 and 2 at its March 2011 meeting.

New Recommendations for 2011

The contexts for this year's recommendations come from our complaint handling and investigative experience in 2010.

Record-keeping

No professional organization relies strictly on human memory to keep records of its activities. And yet, as we review the City's files and conduct our investigations, too often we find examples of poor record-keeping that hamstring the public service's ability to provide efficient, transparent and accountable service. For example, in one instance, we found no records or notes from meetings that had taken place with senior managers in which decisions were taken and action steps agreed upon.

4. That the Toronto Public Service set standards for record-keeping in every area of its operation by the fall of 2011, and that these standards include guidelines on appropriate levels and type of information, whether written or electronic, regarding all service transactions with the public, elected representatives and other parts of the public service.

Communications

Poor communications is another common theme among the complaints we receive from the public. This includes inadequate or improper information—and sometimes no communication at all with residents. The problem is even worse where complaints involve more than one division or part of the public service. Frequently, we find a silo mentality: one unit assumes the other is dealing with the issue, and no one assumes responsibility. Residents are caught in the middle, without the accountability they deserve.

5. That by the fall of 2011, the Toronto Public Service set overall service standards and clearly documented expectations, including timelines, for written and oral communications with residents.

Performance Expectations

Employees, regardless of their status, must be held to account for their performance. As City employees, they have a duty to serve the public to the best of their ability and in accordance with Council directives and public service expectations and standards.

The Toronto Public Service has a well-developed performance management system. In many instances, it is used as the basis for employee salary raises. In light of that system, managers and staff alike must be accountable for their performance and adhere to its standards and goals.

6. That the City Manager hold all employees of the Toronto Public Service, both management and non-management, accountable for meeting all service standards.

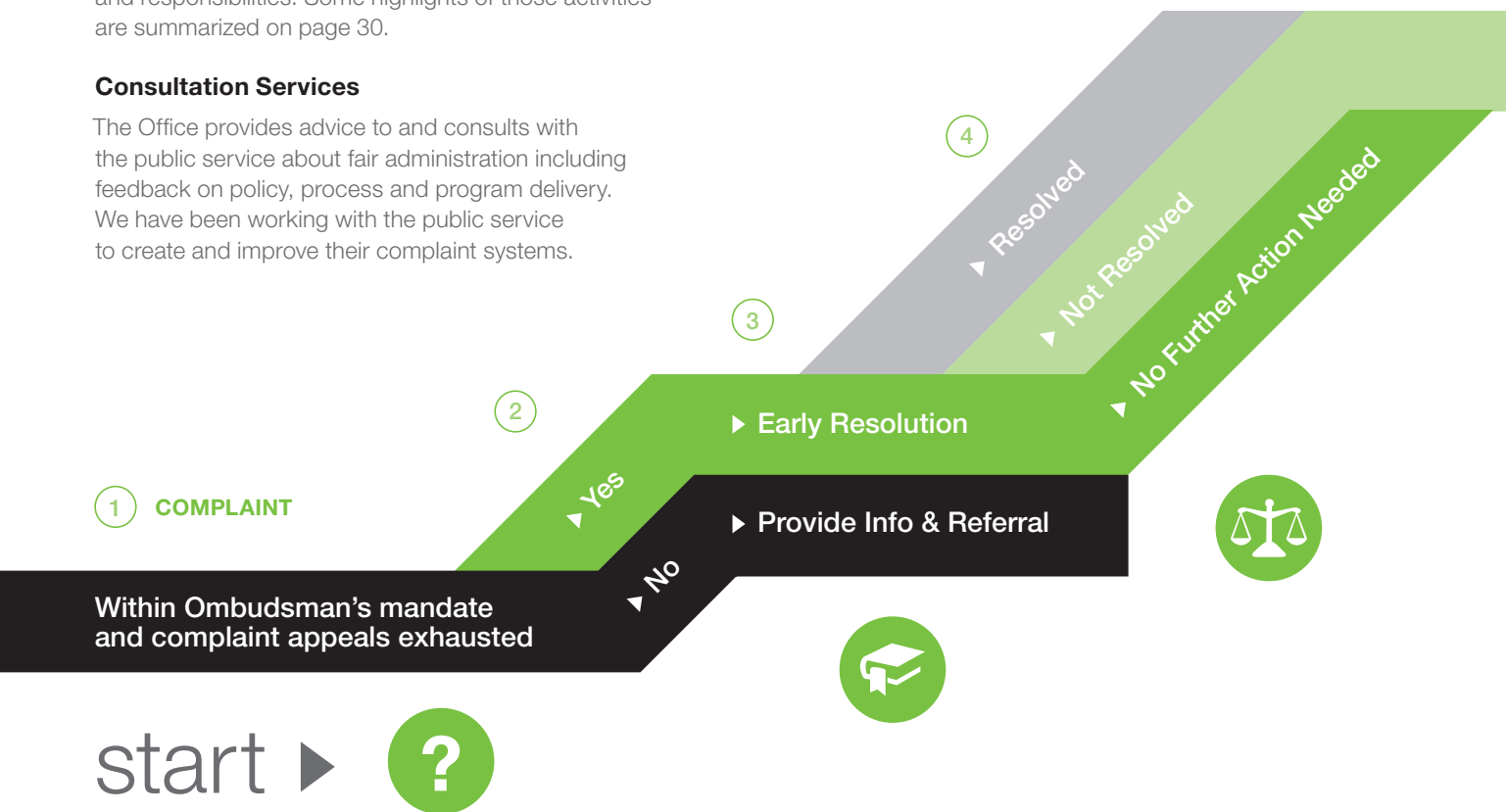
WHAT WE DO

Education and Outreach

A key part of the Ombudsman's mandate is to inform the public and public service alike about their rights and responsibilities. Some highlights of those activities are summarized on page 30.

Consultation Services

The Office provides advice to and consults with the public service about fair administration including feedback on policy, process and program delivery. We have been working with the public service to create and improve their complaint systems.



5

▶ Formal Notice of Investigation



6

▶ Investigation



7

▶ Report and Recommendations as Required



■ report

Information and Complaints

It is often difficult for residents to navigate complex government processes and find an answer to their problem. Ombudsman offices play an efficient and valuable role in this regard. We provide information and referrals with contact information that is accurate and up-to-date.

At the first level of intake, we screen the complaint, clarify and assess its priority and complexity. Often our enquiries will resolve the complaint within a day or two. Sometimes the complaint may take a number of weeks to address because of the interventions required. But the vast majority of complaints are resolved in this way—informally through a variety of dispute resolution mechanisms. Most people want their complaint addressed quickly and without conflict. This approach avoids the need for resource-intensive formal investigations.

Investigations are needed when the facts are complex and contradictory. When the facts raise systemic issues, only an investigation can get to the bottom of such gaps, omissions or structural deficits.

The Ombudsman can also initiate her own investigation where, for example, there are repeat complaints about the same thing, a complaint of compelling public interest or an issue involving vulnerable residents.

Investigation results are published if the recommendations are not acted on by the public service, in which case, the Ombudsman may seek City Council's support in directing their implementation. The Ombudsman will also place before Council those investigations that are of important public interest.

All the work we undertake is guided by a set of values, a code of ethics and service standards that define expectations for the public, equity, timeliness and decision-making. These standards can all be found at ombudstoronto.ca.

"I just wanted to offer my compliments on your well-designed website."

A USA Ombudsman

HOW WE DID

1,5

What We Set Out to Do

In January 2010, the Ombudsman identified systemic investigations as a key priority designed to yield improvements in administration, while continuing to address individual complaints.

What we said our priorities would be

1. Conduct systemic investigations
2. Ensure the Toronto Public Service has robust complaint systems that are posted on the Internet for the public
3. Create an effective complaints resolution service that is relevant and responsive to stakeholders
4. Continue building relationships with the public, communities, business, public service and legislators

We expected the outcomes to include at least one completed systemic investigation and an effective team known to increasing numbers of people across the city.

What We Achieved by December 2010

1. We completed five systemic investigations, four more than expected, resulting in changes to standards, policies and procedures; improved communications; greater accountability and better public service for thousands of residents.
2. We helped the Toronto Public Service make progress on its complaint systems.
3. We created an effective service that includes trained and knowledgeable staff, sound information systems, an updated website, social networks, and two resource publications, one about fairness and the other a guide on complaint handling.
4. We raised the profile of the Office by:
 - participating in more than 130 meetings with elected representatives and a range of community and business stakeholders;
 - delivering public speaking events both within the public service and the community at large;
 - facilitating workshops on effective intake, dealing with unreasonable conduct, accessing local government and investigative planning;
 - hosting meetings with delegations from China and Bermuda; and
 - helping the Peru Ombudsman in creating greater institutional accountability.

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COMPLAINTS & ENQUIRIES

S C R


U T I

N Y

The Ombudsman investigates the facts of the complaint both for complex or systemic cases and receives requests for investigation from City Council.



**TORONTO, A CITY OF 2.6 MILLION,
IS SERVED BY 52,000 PUBLIC SERVANTS**



**The hallmark of an effective ombudsman is maintaining
complete independence while remaining impartial and
responsive to all audiences.**



WE INVESTIGATE

A Tax Sale

Mr. J complained to the Ombudsman office about the sale of his property by the City for his tax arrears. He wanted compensation for the loss of his family home. Mr. J had a long list of complaints against the City. Among them were that the City had neglected to send him the proper notice; had agreed not to sell the property and when the City did, it had made errors during the sale.

The Ombudsman decided to investigate given the serious allegations of maladministration about the City's actions and processes, the impact of the sale on the family, and because Mr. J had consistently pursued the matter.

The investigation was thorough and involved many interviews as well as extensive research into the documents and files.

The Ombudsman found that the City had notified Mr. J of the arrears, consequences and deadlines more than the required number of times and had given him ample opportunities to agree to a payment schedule. Mr. J had been in arrears before and had paid up on that deadline. The Ombudsman concluded Mr. J clearly understood the process. No evidence was found of any agreement not to sell.

The Ombudsman also found that City officials had followed the legal requirements and had acted, as they were supposed to, in the best interests of the City.

The Ombudsman found no evidence of maladministration.

An Eviction and its Consequences

The Office received a complaint from a City Councillor requesting an investigation into the eviction of an elderly tenant from his Toronto Community Housing Corporation (TCHC) apartment.

The tenant, an 82-year old man, was evicted for rental arrears. Mr. A had not provided TCHC with his income verification and as a result, he lost his rent subsidy which then changed his rent to market value. After a time, he fell into arrears, and was eventually evicted. The amount of the arrears was reportedly \$2,700.

Following his eviction, Mr. A lived for a time in the building's stairwell before police were alerted and he was taken to a shelter. During his stay at the shelter, Mr. A became ill requiring hospitalization where he eventually died from complications relating to the infection he picked up in the shelter.

Following receipt of the complaint, the Ombudsman conducted preliminary enquiries and was about to provide notice of her intent to investigate the matter, when she learned that TCHC had decided to conduct an independent review headed by Justice Patrick LeSage.

After examining the LeSage review, the Ombudsman determined that her Office would not pursue a formal investigation. The Ombudsman concluded that the issues, which she had identified for investigation, had been adequately addressed by the LeSage review.

The Ombudsman will continue to monitor the TCHC's implementation of the recommendations set out in the LeSage review.

No Time to Waste

Ms Q moved into her “dream home” in 2002 and had 17 sewage back-ups over the next eight years. During this time, she was in constant contact with Toronto Water. In 2007, Toronto Water formally took responsibility for finding a permanent solution and installed a temporary holding tank in front of her home. Sewage had to be pumped from the tank every few days – a smelly and noisy process. After more than two years there was still no permanent solution.

The house developed a serious mould problem requiring the family to move temporarily, fearing for their health. Ms Q was spending money on cleanups, rent and increased insurance premiums because of the floods.

The Ombudsman investigated and found poor communication and record keeping, an absence of process, a lack of leadership, bureaucratic malaise, unreasonable delay and institutional silos.

City staff had no procedures for addressing projects such as Ms Q’s, did not communicate within their own units or across divisions, did not keep basic paperwork and failed to provide project management leadership. The Ombudsman also found that the City had unreasonably and unjustly delayed in finding and providing a solution for a project over which they took responsibility.

For Ms Q, the Ombudsman recommended the City apologize and fix the problem immediately.

For the benefit of everyone, the Ombudsman recommended that the City develop procedures, and communicate them to staff, identifying clear lines of authority, decision-making, timelines, record keeping requirements and accountability for “non-standard” projects. These systemic recommendations were to be in place by October 2010.

The City accepted all the Ombudsman’s recommendations and by the end of 2010, had implemented them.

Banned Indefinitely: Safety or Punishment?

Parks, Forestry and Recreation (PFR) staff banned Mr. M from all Toronto-run parks and community centres for one year, saying Mr. M had abused their staff. After the year, Mr. M asked for the ban to be lifted. Tensions continued and PFR staff responded by imposing an indefinite ban.

The Ombudsman’s investigation revealed that the indefinite ban was based mostly on historical interactions that PFR staff had had with Mr. M. In effect, Mr. M was being doubly punished. The Ombudsman found that a lifetime ban was excessive and unjust. She also found that staff had not kept proper documentation about the allegations nor had they given Mr. M an opportunity to respond to the allegations.

Procedural fairness requires that an affected person be told of the consequences of a decision. The person also has the right to respond to a decision-maker and the right to an unbiased decision.

The Ombudsman was concerned with the importance of protecting public access to public property because of its special nature: it is owned and administered for a resident’s benefit and use.

The Ombudsman recommended that the PFR direct its staff to set out a procedure to follow when banning someone. The affected person must be told of any pending ban, the reasons for the ban and the person must have the opportunity to respond before the ban takes effect. The period of the ban must be limited, clearly communicated and be proportionate to the safety concerns.

Since the Ombudsman issued her report in March 2010, PFR has implemented all the recommendations.

WE INVESTIGATE

A Community Centre had it Covered

Mr. E complained about the manner in which a community centre had responded after his daughter was reportedly assaulted while at a day camp. He alleged that the centre failed to report it to the police and withheld vital information.

Mr. E believed the centre's actions indicated a lack of concern and a failure to train staff to appropriately deal with such matters. He had raised the matter with the City and the police but was dissatisfied with their responses.

In light of the serious allegations and disputed facts, the Ombudsman undertook an investigation.

The investigation revealed that the centre responded appropriately. The centre had informed the police and shared all available information with Mr. E and the police. The centre's response to the incident was in accordance with its policies which the Ombudsman found were adequate. The Ombudsman informed Mr. E that the centre had responded correctly and she did not support his complaint.

A Duty to Care

Municipal Licensing and Standards (MLS) inspected a tree on a senior's property at a neighbour's request and issued an order requiring its destruction. The order was difficult to understand, vaguely worded and the owner was a senior with dementia.

As the case raised broader issues about how the City treats people with dementia and diminished capacity, the Ombudsman decided to investigate the complaint on her own initiative.

Over a period of nine months, the owner's son, Mr. Z, attempted to negotiate with the City on his mother's behalf but got nowhere. The City misapplied a bylaw in cutting down the tree when there was a cheaper alternative—and then charged the owner thousands of dollars for it.

The Ombudsman found that the City failed at every turn to deliver the level of service residents are entitled to expect. The City made no attempts to adapt their procedures for someone who they knew was unable to understand the consequences of the order, let alone defend or negotiate on their own behalf.

The Ombudsman made 17 recommendations, 13 of which were designed to improve communication and public service generally and were specifically intended to meet the needs of residents with dementia and diminished capacity. The remaining four recommendations included an apology to the resident and her son, a reversal of all levies charged for the removal of the tree and replacement of the tree.

The City did not dispute the Ombudsman's findings and acknowledged the need to address the range of systemic issues identified immediately.

A Difficult Business

Ms T, a business owner, complained to the Ombudsman's office about the process followed by the City's Business Improvement Area (BIA) office, a unit of the Economic, Development and Culture (EDC) division. Ms T maintained that the BIA office supported the expansion of an existing BIA, without addressing a competing request from her group who wanted to establish a new BIA.

The City received the two requests within one day of each other. The first request was from an existing BIA which sought approval to expand its boundaries. The second request was received from Ms T's group wishing to create a new BIA. The geographical boundaries specified in each proposal were similar.

The process for expanding or establishing a BIA is set out in the Municipal Code. Local business, commercial or industrial property owners form a steering committee, which defines the boundaries of a new BIA or the expansion of one in existence. The Code also indicates that the steering committee is to hold meetings with local businesses before holding a formal session to determine whether there is sufficient community support. If there is, a request can be made to EDC to ask Council to create or expand a BIA.

After several meetings with area property owners and business tenants, City staff concluded that they were unable to "ascertain a prevailing opinion on which direction to proceed."

Since the Code is silent on the issue of what to do with competing requests, supporters of the expansion option and some supporters of the competing requester (Ms T's group) asked the City to consider moving forward with a public meeting to poll for a smaller expansion area. By doing so, consideration for the establishment of the new BIA would be suspended to allow the expansion poll to proceed.

A public meeting was held to gauge support for the revised expansion option and those attendees who were eligible, voted in favour of the expansion proposal. The poll was successful and the City's Economic Development Committee approved the expansion of the BIA.

However, the Ombudsman found that the City was wrong and had made a mistake of law. She concluded there was nothing in law to prevent the BIA office from considering both requests simultaneously. She also determined that the request, which concerned the establishment of a new BIA, should have also been brought forward to a public meeting.

The Ombudsman made three recommendations designed to improve the transparency and clarity of the BIA process which were accepted by the City.

"Your detailed investigation was fantastic."

A resident

WE INVESTIGATE

A Tragic Delay

In 2009, the Ombudsman received a complaint from the partner of a man who had died after paramedics took too long to arrive at the scene.

Toronto Emergency Medical Service (EMS), the division responsible for the service, asked the Ministry of Health and Long Term Care to conduct an investigation into the delayed response by EMS staff.

The Ombudsman decided not to proceed with an investigation, as she was satisfied after receiving confirmation that the concerns raised by the complainant would be addressed through the Ministry's review.

Following the Ministry's report, the Ombudsman recommended attaching timelines to the Ministry's 13 recommendations, which the City agreed to.

EMS has reported that all of the Ministry's recommendations have been implemented.

Housing Matters – Recommendations Adopted

In her 2009 annual report, the Ombudsman reported on an investigation into a tenant who had been served notice of eviction at the Toronto Community Housing Corporation (TCHC). The Ombudsman found that TCHC had failed to investigate the allegations made against the tenant or communicate properly with him.

Early in 2010, TCHC, working with the Ombudsman, accepted all 12 of the recommendations in the report. In changing its procedures, TCHC will ensure fairness when dealing with complaints of serious misconduct made against a tenant and when issuing eviction notices.

“It is so reassuring to know that you and your team are on guard...You are able to actually change policy. AND you are able to report on it very vibrantly, clearly, and concisely.”

A resident



At City Council, No Time to Waste: an Investigation into Toronto Water and Technical Services Handling of a Resident's Sewage Problems.



CASE STORIES

The Ombudsman and her staff help people from all neighbourhoods—anyone who has a problem with city government services. Occasionally it takes only a few phone calls and an exchange of correspondence to straighten something out. More often, it takes many calls and various interventions over days and sometimes weeks to resolve. Here is a sampling of the individual cases that the Office has resolved in 2010.

CASE STORIES

Swimming in Water Bills

Mr. L was receiving estimated water bills for his restaurant over several months and thought the amounts were too high. He did the right thing by calling Toronto Water to give them a reading and to talk about resolving the discrepancy. They told Mr. L that his meter was not working properly and they would check it.

No one came. Worrying that the amount would be transferred to his taxes, Mr. L tried contacting Toronto Water again but he couldn't reach anyone.

Then he called the Ombudsman. Ombudsman staff learned that Mr. L's bills had been estimates since 2007. An inspector examined the meter and fixed it. Toronto Water promised to monitor the new daily average to determine an appropriate bill or credit. However, they did not explain that to Mr. L and he was confused about why he needed to pay the current estimated bill. Ombudsman staff linked him up with the right City staff person and they have now resolved the issue.

Result: Mr. L's meter was fixed, his billing situation straightened out, and City staff explained the situation clearly so that he understood it.

Where's the Meter?

Since moving to his home in 1998, Mr. E had been paying his water bill regularly. In 2004, he received a request from Revenue Services to read his meter because he had been paying estimates for the past five years.

Mr. E could not find his meter, reported this to Revenue Services and continued to pay estimates for the next four years. In 2009, a representative from Revenue Services came to read the meter. The representative could not find the meter either, so things continued as before.

Several months later while Mr. E was renovating his basement, he found the meter behind some drywall. He submitted the reading and received a bill for more than \$1,400. This reflected the 2010 rate rather than the rate that would have been applied in previous years. Mr. E paid the bill but requested a refund. The refund was denied and that is when he called the Ombudsman.

Result: Ombudsman staff verified the events with Mr. E, and Revenue Services. Mr. E had not received notices or requests about his water for the first five years he was in the house. In light of this lack of communication on the City's part, Ombudsman staff negotiated a substantial refund for Mr. E.



Failure to Disclose has Consequences

Mr. H, a university student and Toronto Community Housing (TCHC) tenant, asked for a retroactive deduction from his rent and a rent recalculation. He had recently learned he was entitled to claim a deduction from his income for child support when declaring his income to TCHC.

TCHC refused to review his request. Mr. H continued to pursue the matter and TCHC recalculated his rent on the basis of misreported income according to his child support court documents. TCHC did not inform Mr. H of this misreporting. Mr. H tried to explain the court documents and his correct income and even got help from a legal clinic to request an internal TCHC review.

Almost a year after his first request, TCHC recalculated his rent but only for support payment deductions for the previous year. Mr. H asked why the recalculation was for only one year but got no explanation.

Mr. H called the Ombudsman.

Ombudsman staff were concerned about the one-year limit for deductions and the lack of explanation to Mr. H.

Ombudsman staff also talked with TCHC about the lack of policy for calculating retroactive deductions.

Result: TCHC agreed to a reimbursement for Mr. H that included deductions he was entitled to claim. And, to improve the process for everyone, TCHC's new forms ensure that all tenants know about these potential deductions.

Right Name, Wrong Number, No Wheel-Trans

When her ceiling collapsed in March 2009, Ms X moved to a new apartment in her Toronto Community Housing building. Ms X uses a wheelchair and depends on Wheel-Trans to get around. Ms X had been asking her building superintendent to move her name on the intercom to reflect the apartment change. This was crucial, because the Wheel-Trans drivers buzz the number on the intercom even though Ms X told Wheel-Trans about the change when she called them. As a result, Ms X missed several pick-ups for appointments.

By August 20, 2010, Ms X lost her patience. She called the Ombudsman's office. An Ombudsman Representative took this issue to staff at TCHC who said a contractor was hired



to replace the panel but they needed a part that was on back order. Ombudsman staff said that surely there could be some kind of temporary fix.

Result: In August, 17 months after her move, Ms X's buzzer was working. Ms X commented, if the Ombudsman office had not intervened, it would never have been fixed.

“Congratulations. Terrific work... You are getting at the attitude that needs changing.”

A member of the public

KEY ISSUES

Unpredictable Enforcement

- Over-enforcement
- Under-enforcement

Failure to follow processes

- Inconsistent application
- Lack of processes

Faulty Decisions

- Wrong
- Unfair
- Unreasonable
- No explanation

Poor service

- Unable to access public servant
- Unfair treatment
- Unfair policies

Unprofessional Conduct

- Rude
- Disrespectful
- Unhelpful

Unreasonable Delay

- Phone or email messages
- Duration of complaint handling processes
- Duration of appeal processes

Poor Communication

- Unclear documentation
- Confusing
- Difficult to understand
- Unreturned messages
- Unreasonably delayed response times
- Lack of / wrong information

Poor Record Keeping

- Lack of note-taking
- Incomplete files
- No record of decisions taken
- No paper trails

CASE STORIES



The Little Black Bin

Ms K should have been getting a discount for using the smallest black garbage bin, but she wasn't. She called Solid Waste Management Services and they told her that she did not have a bin at all. She gave them the identifying number on her bin and even provided pictures of her bin. For about a year, every time she called, staff told her she did not have the bin.

She phoned the Ombudsman's office, whose staff found out that Revenue Services was in charge of billing and depended on Solid Waste to give them the correct information.

Ombudsman staff spoke to both divisions and managed to get the mistake corrected.

Result: Ms K received credit dating back to when she got her little black bin and now she is receiving the correct bill for producing less waste.

Muddled up Money

Ms B paid her property tax bill through the Internet but it had been applied to the wrong account. Ms B stated she had made her payment in May 2010 and she sent several faxes of her receipts to Revenue Services to prove it.

She faxed a letter to Revenue Services staff in June requesting an itemized account of payments she had made. She then spoke to someone in July who indicated a credit would be applied to her bill. When the issue was still not resolved in August, she sent another fax.

Frustrated, she finally called the Ombudsman's office, whose staff discovered that Ms B had missed a few digits on her tax bill and the money had been applied to the wrong account.

Result: Ombudsman staff got through to Revenue Services who confirmed that Ms B's bank had applied the funds incorrectly. They corrected the mistake.

Caught in Red Tape

Ms D came to Canada in 1989 and applied for refugee status. She was given a permit to work and a temporary Social Insurance Number. She was denied landed status in September 2010. This meant she lost the ability to work and was not eligible for Employment Insurance. She appealed the decision.

Being unable to work and needing money, she went to the City's Employment and Social Services (TESS) office where they told her to apply by telephone. She called the intake line and was told she was not eligible for assistance because of her status in Canada. They said she could go to a shelter.

She called the Ombudsman.

Ombudsman staff contacted TESS to ask what Ms D could do. The City staff said that the information given to Ms D might be wrong and she should try applying again. If she was denied, she could appeal. Ombudsman staff called Ms D and explained

the situation, and Ms D once again applied over the phone. The worker then asked to meet with Ms D, requesting that she bring her immigration appeal documents.

Result: Through the Ombudsman's intervention, the error was corrected and Ms D received the financial assistance she needed. She was eligible for the assistance as the immigration decision was being appealed.

That Sinking Feeling

Mr. R noticed a sinkhole at the edge of the road in front of his place of work. The hole was about 30 cm across and a substantial 65 cm deep. He called 311 on July 7, 2010 and they told him someone would inspect the site within 24 hours.

On July 22, the hole was still there and Mr. R called 311 again. He was told the matter had been given to Transportation Services. He waited another two weeks. He called again and 311 staff said Transportation Services had assessed the hole and referred it to Water Services. Water Services had scheduled the work.

Mr. R went on vacation for two weeks and when he returned the hole was still there, although now with the addition of two pylons and fallen-down signs beside it.

It was now more than seven weeks later. Mr. R called 311 for the third time, and the representative told him that Water Services had closed the file, which meant the hole was fixed. Mr. R could still see the hole, and so he replied that it was not fixed. Then the staffer gave him a new tracking number and told him Transportation Services would have to inspect the site and fix the problem.

Mr. R called the Ombudsman. Ombudsman staff called a number of City staff to track down the source of the problem. After some digging, City management agreed to find a solution.

It turned out that Toronto Water did what they were supposed to do but did not instruct Transportation Services to do its part. Instead, a Toronto Water employee mistakenly notified Technical Services, where it sat on the desk of someone who was away.

Result: Following the Ombudsman's intervention, Transportation Services sent a crew out and fixed the sinkhole... 8 weeks later.

The Grass isn't Greener

In 2009, the City did some work in front of Mr. A's home, dug up some of his yard and laid gravel and new sod.

Mr. A, however, complained several times to the City that the grass wasn't growing. The City replaced the sod three times and suggested he water the area diligently. Mr. A said he had been watering.

He then contacted the Ombudsman who intervened with the division and the City eventually agreed to replace the gravel and put down new top soil. They sent a letter to Mr. A explaining what they had done and said it was the last time they would replace the sod.

Result: Only because Ombudsman staff became involved and questioned the quality of the materials used, did the City act. Mr. A was quite satisfied with the resolution.



CASE STORIES



Up the Downspout

Ms C's basement had been flooding for more than three years. As she did not use the basement, she had not noticed the extent of the problem until she saw sludge backing up into the plumbing on the upper floors.

Ms C approached Toronto Water who advised her to have her downspouts disconnected through their Voluntary Downspout Disconnection program. She applied for the program and then heard nothing. After many attempts to contact Toronto Water staff, she was finally able to schedule a visit from an inspector.

The inspector came, walked around the house, inspected the downspouts and said he would be back with a site plan.

At the appointed time, the inspector did not return. Ms C did not hear back from him nor did she receive a site plan. She was frustrated because she had taken time off work for which she lost pay and when she called, he was rude to her. Ms C called the Ombudsman's office. Ombudsman staff made several calls and looked at program materials Toronto Water staff sent. After a careful review, Ombudsman staff then spoke to management about the poor communication and low service standard.

Result: The Toronto Water manager agreed with the Ombudsman staff and began the process of addressing Ms C's concern the next day.

Rent doubled, by mistake

Ms H, a tenant paying rent-geared-to-income for her unit, called to complain about her rent, which had doubled from one month to the next. She had received a notice from the Toronto Community Housing Corporation (TCHC) on July 12. The envelope

showed it was mailed July 6, the letter inside was dated May 24 and the increase was to take effect June 1, 2010.

Every year, tenants paying rent-geared-to-income give proof of their income to TCHC. Ms H had provided her proof of income to TCHC, however her employer had marked more hours on a pay stub than she had worked. Ms H had contacted her employer, who was prepared to correct the error.

Ms H called her tenant coordinator and left several messages. When she received no reply, she went to her building superintendent. Ms H reported that he told her TCHC does not have to give notice of rent increases.

Having tried the proper channels without success, Ms H called the Ombudsman.

Ombudsman staff contacted TCHC and, after several tries, convinced staff that based on the evidence they should look at the matter properly.

Result: TCHC staff examined her file, listened to what Ms H had to say and made the correction, cancelling the unfair rent increase.

“But I can still see it sitting there”

Someone left a broken stroller on Ms K’s lawn. She tried to move the stroller to the lane at the back of the house where her garbage is picked up, but the stroller was too heavy and too big to fit between the houses.

She called 311, the City’s one-stop service line, to ask if someone could pick it up. She was given a tracking number and told it would be picked up in 72 hours. That didn’t happen.

Ms K called again. 311 staff told her the City had picked up the stroller and closed her file. This response was based on the information the division responsible had put into the computer system. Ms K replied that the stroller hadn’t been picked up because she could still see the derelict stroller.

She was told she would have to wait another 72 hours for pickup. Still no pick up happened. Ms K called 311 again. This time she was told that the garbage had been picked up at 9:51 a.m. Yet, she was still looking at the stroller and that is when she called the Ombudsman.

Ombudsman staff spoke to a number of officials, and managed to convince them that issuing a second service ticket was not only poor service but unfair to the resident.

Result: The stroller was, indeed, finally picked up.

Can’t get no Compaction

Mr. Y and Mr. Z had a garbage compactor at the back of their apartment units. They were no longer using the compactor but were being charged extra fees for it.

They called to complain about the extra fees. Solid Waste staff told them to weld the compactor shut, thus making it inoperable. They did as recommended but continued to receive bills and when they complained again, they were told they should have called Municipal Licensing and Standards (MLS).

MLS needs to approve the welding-shut of compactors in compliance with Council bylaws on recycling.

Mr. Y and Mr. Z called MLS and an inspector came to take pictures of the now useless compactor and confirm its closure. When they received yet another bill for compacted waste, they called the Ombudsman.

Ombudsman staff reviewed the bylaw and policies, only to discover that as long as the compactor is on site, the bill will remain the same. However, they gave Solid Waste Management and Revenue Services staff documentation from inspection staff and images of the inoperable compactor.

Result: Ombudsman staff convinced the City this situation was unfair and after several discussions between the City and Ombudsman staff, Mr. Y and Mr. Z are no longer paying extra fees for a service they are not using.

“Your work is crucial to the community, helping to bring a voice and balance whenever individuals or groups choose to challenge ethics and bend the rules.”

A resident

C O M

M U N

L T Y



Outreach continues to be a central plank of the Ombudsman's strategic plan. Communicating the role and function of the Office enables residents to know their rights and responsibilities and consequently address issues they may have with local government.

We inform Legislators

We have been informing City Council and individual Councillors about the role of the Ombudsman and how we can be a resource to their constituents and the Toronto Public Service. The Ombudsman has met with every Councillor at least once through the year and each of the new Councillors following the 2010 municipal election. At the time of this publication, information sessions are being organised for the staff of elected representatives.

We share our expertise

Sponsored by the Forum of Canadian Ombudsman, we conducted training workshops on intake and systemic investigations. We also met with the Integrity Commissioners from around the province, ran a workshop with Pro Bono Law and met with ombudsman and human rights delegations from China and Bermuda.

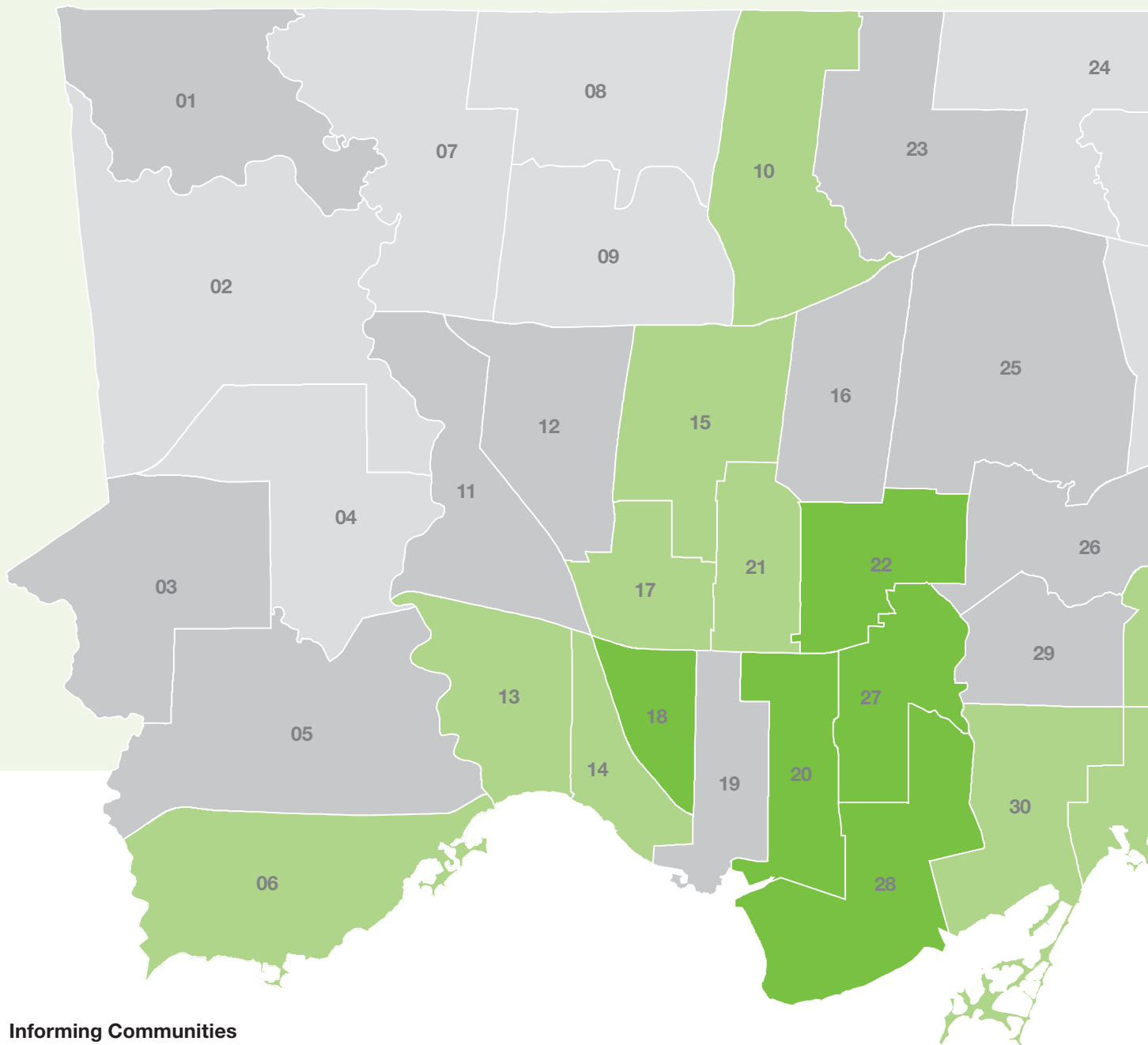
The Ombudsman travelled to Peru in 2010 to assist her Peruvian colleague in developing results-based management. This initiative was funded by the Canadian International Development Agency and executed by the Institute of Public Administration Canada.

We work with the Toronto Public Service

Much of our efforts over the past year have been focused on assisting divisions and other parts of the public service to develop and improve their complaint systems where needed. We published a guide on complaint handling to help public servants in developing their systems.

We have continued to promote opportunities for discussing new policy, procedure and program impacts and in that regard have been invited to speak at a number of management meetings about our mutual roles and responsibilities. We also published a handbook on fairness which is intended to help public servants understand their rights and responsibilities.





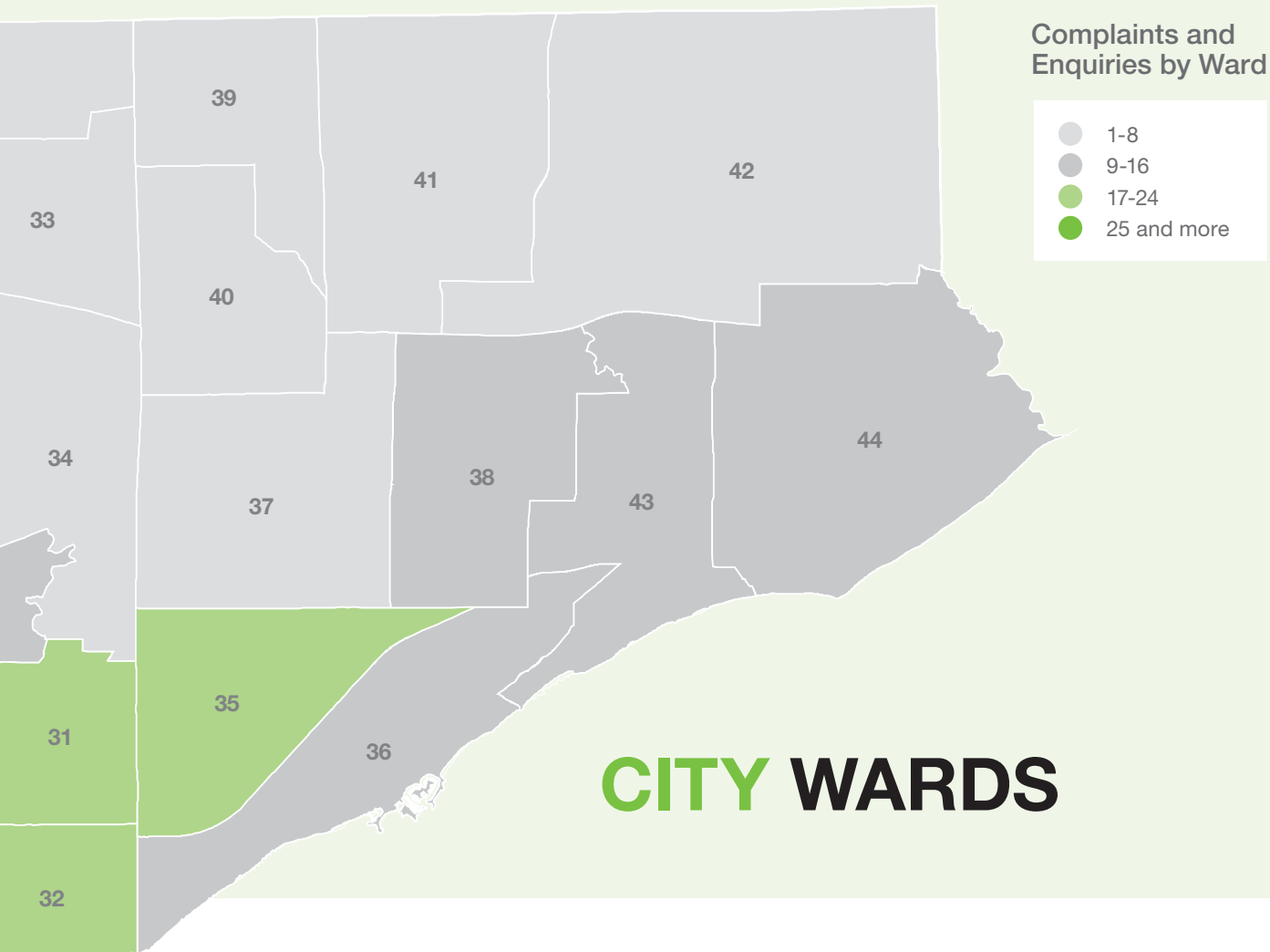
Informing Communities and Learning from Residents

Reaching Toronto's diverse communities requires effort and understanding of how government is perceived and experienced. In the context of the Ombudsman's resources and the city's significant population, we began our efforts by making linkages with community stakeholders such as legal clinics.

We attended events at community organizations such as The 519 Community Centre, the Urban Alliance on Race Relations, Women of Influence and the Canadian Centre for Victims of Torture. We met with a variety of stakeholders including Kiwanis seniors, residents in Swansea and youth through the Wellesley Institute. We conducted workshops

with groups such as an ESL class in Malvern, the Metro Toronto Chinese & South Asian Legal Clinic and the Federation of Metro Tenants' Association.

The Ombudsman's first full year of operation has made the challenge and service gaps much clearer. The city's ward map shows that most complaints



come from those residents living in the downtown core where there is easy access to public transit. The Office is far better known to the professional from the Annex than the single parent from Thorncliffe Park or Steeles–L’Amoreaux who works the night shift. It is natural that those with higher socio-economic status and more education will have the time and means to complain when they have been wronged.

But the downtown core is not where most of the city’s population lives. Outside the city’s core, it is a different picture.

That is where almost all of Toronto’s low-income neighbourhoods are and it is those residents who are the ones most likely to be hurt by barriers to equitable access to the City’s programs and services. Analysis of the neighbourhoods outside the downtown core shows they have a higher than average proportion of immigrants and newcomers, people with no knowledge of English or French, and high numbers of people with disabilities.

Along with these conditions come precarious employment, health, childcare and other

circumstances which reduce people’s opportunity to learn what an ombudsman is, let alone submit a complaint.

The unsettling truth is that those most likely to be in need of the Ombudsman are the ones least likely to know about the services, and are often not in a position to find the Office easily.

These residents, whose life situation brings them into frequent contact with government, may also be most vulnerable to unfairness.



OUT

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Ninety three percent of complainants found the Office directly while the balance were referred by legal clinics and elected representatives from the municipal, provincial and federal governments.

WE REPORT

THE STORY IN NUMBERS

The Ombudsman's office handled 1,562 complaints and enquiries in its first full year of operation. Nine of these were investigations and 1,525 were handled as early resolution cases. Of the total, at December 31, 2010, 1,534 had been processed and closed while 26 early resolution cases were in progress and two investigations were underway.

The five most common types of ombudsman issues found across the Toronto Public Service included a failure to adequately communicate; a wrong, unreasonable or unfair decision; unreasonable delay; inadequate, poor or denial of service; and failure to adhere to established processes and guidelines or to apply them consistently.

Top Ten Ombudsman Case Categories

1. Communication inadequate, improper or none
2. Decision wrong, unreasonable or unfair
3. Unreasonable delay
4. Denial or lack of services; inadequate or poor service
5. Failure to adhere to or consistently apply policies, procedures or guidelines; unfair policy/procedure
6. Enforcement unfair or failure to enforce
7. Failure to keep a proper record
8. Insufficient reasons for a decision or no reason given
9. Inadequate or lack of complaint process; poor handling of complaint
10. Failure to provide sufficient or proper notice

The areas in the public service that received the most and widest range of complaints were Municipal Licensing and Standards (MLS), Revenue Services and Toronto Community Housing Corporation (TCHC).

In MLS, the key themes included poor communication with the public, confusion with its processes and documentation, and substandard staff conduct and customer service. Inspection fees and invoices as well as license-related processes were confusing and difficult to understand. The notices of violation were unclear, the purposes were difficult to understand and some residents received notices that were not intended for them. Complainants contended that their attempts to resolve any confusion were often met with delay and poor handling by staff. Residents reported difficulties in reaching MLS staff and when they did, they were often obliged to wait long periods for a response.

Complaints about Revenue Services centred on poor customer service as a result of unclear processes, unreasonable delays, poor communication channels and a lack of process to easily resolve disputes. Almost half the complaints were about disputed water and tax bills largely stemming from incorrect information on bills. Residents also had difficulty navigating the appeals process to reduce or forgive balances owing. There were a number of complaints about poor service at the parking tags counter, incorrect information on parking tags and the appeals process for disputing the ticket.

WE REPORT

At TCHC, there was explicit concern with its customer service standards and delay in service delivery across a number of areas. Maintenance and transfer requests were frequently raised as a source of unreasonable delay. In the case of maintenance, residents often complained about delay in addressing water, sewage and deteriorating infrastructure.

Requests for emergency transfers due to personal safety issues were not addressed in a timely manner. There were complaints about delays in attending to bug infestations and a lack of clear feedback about why the wait time for housing placement was so long. Residents also complained about the unfair determination of their rent increases given their personal circumstances.

Our Jurisdiction: The Top Ten

- Employment and Social Services
- Municipal Licensing and Standards
- Parks, Forestry and Recreation
- Revenue Services
- Solid Waste Management
- Toronto Building
- Toronto Community Housing Corporation
- Toronto Transit Commission
- Toronto Water
- Transportation Services

On the investigative front, the Ombudsman conducted five investigations that were systemic in nature. Thematically, these investigations revealed poor processes, little to no record keeping, unacceptable communications and customer service, decisions being made without explanation and far too many unjustifiable delays.

The Internet and electronic mail were the largest source of complaints at 50%, with 43% coming in by telephone; the balance was visits in person and mail. The majority of complainants found the Ombudsman’s office directly, while the rest were referred by legal clinics and elected representatives from all three levels of government.

Summary of Complaints and Enquiries

	Early Resolution	Investigations	TOTAL
Processed and closed	1,525	9	1,534
In progress	26	2	28
TOTAL	1,551	11	1,562

“The purpose of this letter is to express our sincerest thanks to you and your team for the excellent customer service, efficiency and expediency in meeting with us, intervening on our behalf, and in total bringing back sanity to our crisis situation.”

A complainant

The Ombudsman's office has a published complaint system about its own services. Three complaints were filed with the Ombudsman, one about an ombudsman policy, one about staff conduct and the third was dissatisfaction with the decision rendered. None of these complaints were upheld.

The complaint about policy did not require any action on the part of the Ombudsman.

The complaint about Ombudsman staff conduct was not substantiated. In fact, the staff actions and her advice to the complainant were correct and she followed all Office service standards.

The complainant who was dissatisfied with the outcome of his complaint also wanted the explanation in writing. He was sent a letter regarding the reasons for the decision but the Ombudsman upheld the staff's decision as correct.

FINANCIALS

2010 Budget

In 2010, the Office of the Ombudsman budget allocation was \$1.354 million for the operating year ending December 31, 2010. This was the first full year of operation for the Office.

2009 Audit

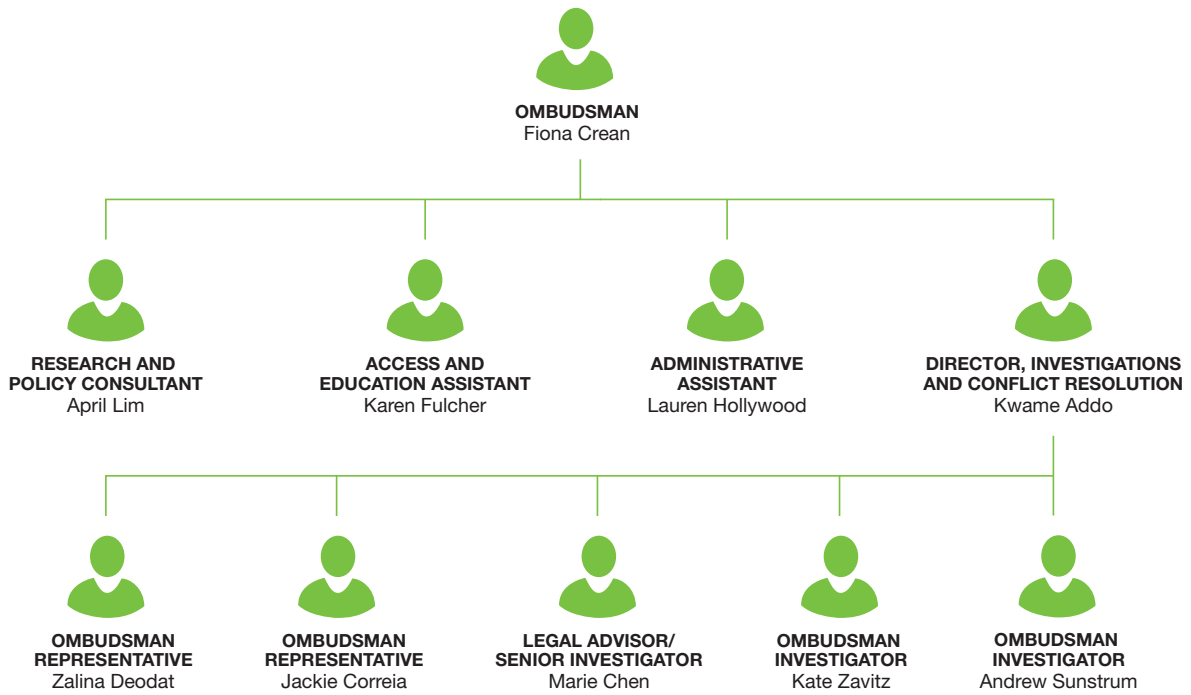
Gore & Associates, an external audit firm, performed a successful compliance audit for the fiscal year ending December 31, 2009, a full copy of which is reproduced on the Ombudsman's website at ombudstoronto.ca. The 2010 compliance audit will be tabled with City Council in the spring of 2011.

"It's easy for individuals to get swept under carpets or be dropped into oubliettes... Good for her on this one." (referring to the Ombudsman)

Reader comment from the Toronto Star



THE TEAM



TORONTO OMBUDSMAN

- We are impartial investigators of the public's complaints about the administration of city government including its agencies, boards and commissions
- We are independent of the Toronto Public Service
- The Ombudsman is an Officer of Toronto City Council
- We look at fairness in terms of process, decision making and equity
- We look at complaints when the public service has not resolved the complaint
- We are the office of last resort
- We offer free and confidential services
- We make recommendations, for example, to change conduct, policy, and process that uncover improper administration
- We are neither advocates for the complainant nor apologists for government
- We are advocates for fairness



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