

City of Toronto Act, 2006
S.O. 2006, CHAPTER 11
SCHEDULE A

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PART V
ACCOUNTABILITY AND TRANSPARENCY

INTERPRETATION

Definitions

156. In this Part,

“city-controlled corporation” means a corporation that has 50 per cent or more of its issued and outstanding shares vested in the City or that has the appointment of a majority of its board of directors made or approved by the City, but does not include a local board; (“société contrôlée par la cité”)

“code of conduct” means a code of conduct established under section 157; (“code de déontologie”)

“grant recipient” means person or entity that receives a grant directly or indirectly from the City, a local board (restricted definition) or a city-controlled corporation; (“bénéficiaire d’une subvention”)

“local board (restricted definition)” means a local board other than,

- (a) a society as defined in subsection 3 (1) of the *Child and Family Services Act*,
- (b) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*,
- (c) a committee of management established under the *Long-Term Care Homes Act, 2007*,
- (d) a police services board established under the *Police Services Act*,
- (e) a board as defined in section 1 of the *Public Libraries Act*,
- (f) a corporation established in accordance with section 148,
- (g) such other local boards as may be prescribed; (“conseil local (définition restreinte)”)

“public office holder” means,

- (a) a member of city council and any person on his or her staff,
- (b) an officer or employee of the City,
- (c) a member of a local board (restricted definition) of the City and any person on his or her staff,

- (d) an officer, director or employee of a local board (restricted definition) of the City, and
- (e) such other persons as may be determined by city council who are appointed to any office or body by city council or by a local board (restricted definition) of the City. (“titulaire d’une charge publique”) 2006, c. 11, Sched. A, s. 156; 2007, c. 8, s. 198 (3).

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OMBUDSMAN

Appointment of Ombudsman

170. (1) The City shall appoint an Ombudsman. 2006, c. 11, Sched. A, s. 170 (1).

Reporting relationship

(2) The Ombudsman reports to city council. 2006, c. 11, Sched. A, s. 170 (2).

Status

(3) The Ombudsman is not required to be a city employee. 2006, c. 11, Sched. A, s. 170 (3).

Function

171. (1) The function of the Ombudsman is to investigate in an independent manner any decision or recommendation made or any act done or omitted in the course of the administration of the City, its local boards (restricted definition) and such city-controlled corporations as city council may specify and affecting any person or body of persons in his, her or its personal capacity. 2006, c. 11, Sched. A, s. 171 (1); 2009, c. 33, Sched. 21, s. 4 (10).

Powers and duties

(2) Subject to this Part, in carrying out this function the Ombudsman may exercise the powers and shall perform the duties assigned to him or her by city council. 2006, c. 11, Sched. A, s. 171 (2).

Powers paramount

(3) The powers conferred on the Ombudsman under this Part may be exercised despite any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect thereof, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question. 2006, c. 11, Sched. A, s. 171 (3).

Decisions not reviewable

(4) Nothing in this Part empowers the Ombudsman to investigate any decision, recommendation, act or omission,

- (a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired; or
- (b) of any person acting as legal adviser to the City, a local board (restricted definition) or a city-controlled corporation or acting as counsel to any of them in relation to any proceedings. 2006, c. 11, Sched. A, s. 171 (4).

Delegation

(5) The Ombudsman may delegate in writing to any person, other than a member of city council, any of the Ombudsman's powers and duties under this Part. 2006, c. 11, Sched. A, s. 171 (5).

Same

(6) The Ombudsman may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 11, Sched. A, s. 171 (6).

Investigation

172. (1) Every investigation by the Ombudsman shall be conducted in private. 2006, c. 11, Sched. A, s. 172 (1).

Opportunity to make representations

(2) The Ombudsman may hear or obtain information from such persons as he or she thinks fit, and may make such inquiries as he or she thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but, if at any time during the course of an investigation, it appears to the Ombudsman that there may be sufficient grounds for him or her to make any report or recommendation that may adversely affect the City, a local board (restricted definition), a city-controlled corporation or any other person, the Ombudsman shall give him, her or it an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel. 2006, c. 11, Sched. A, s. 172 (2).

Application of *Ombudsman Act*

(3) Section 19 of the *Ombudsman Act* applies to the exercise of powers and the performance of duties by the Ombudsman under this Part. 2006, c. 11, Sched. A, s. 172 (3).

Same

(4) For the purposes of subsection (3), references in section 19 of the *Ombudsman Act* to "any governmental organization", "the *Freedom of*

Information and Protection of Privacy Act” and “the *Public Service of Ontario Act, 2006*” are deemed to be references to “the City, a local board (restricted definition) or a city-controlled corporation”, “the *Municipal Freedom of Information and Protection of Privacy Act*” and “this Act”, respectively. 2006, c. 11, Sched. A, s. 172 (4); 2006, c. 35, Sched. C, s. 15 (1).

Duty of confidentiality

173. (1) Subject to subsection (2), the Ombudsman and every person acting under the instructions of the Ombudsman shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 11, Sched. A, s. 173 (1).

Disclosure

(2) The Ombudsman may disclose in any report made by him or her under this Part such matters as in the Ombudsman’s opinion ought to be disclosed in order to establish grounds for his or her conclusions and recommendations. 2006, c. 11, Sched. A, s. 173 (2).

Municipal Freedom of Information and Protection of Privacy Act

(3) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 11, Sched. A, s. 173 (3).

No review, etc.

174. No proceeding of the Ombudsman under this Part shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court. 2006, c. 11, Sched. A, s. 174.

Testimony

175. (1) The Ombudsman and any person acting under the instructions of the Ombudsman shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions under this Part. 2006, c. 11, Sched. A, s. 175 (1).

Same

(2) Anything said or any information supplied or any document or thing produced by any person in the course of any investigation by or proceedings before the Ombudsman under this Part is privileged in the same manner as if the inquiry or proceedings were proceedings in a court. 2006, c. 11, Sched. A, s. 175 (2).

Effect on other rights, etc.

176. The rights, remedies, powers, duties and procedures established under sections 170 to 175 are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter,

and nothing in this Part limits or affects any such remedy or right of appeal or objection or procedure. 2006, c. 11, Sched. A, s. 176.