

## Notes for Remarks

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### *Keeping Toronto a Place Where People Count*

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Good morning!

It is a privilege to be with people who are making democracy work, who are improving our community, who provide advocacy to make Toronto a better place to be a tenant.

So often I see situations where people lack power to make their lives livable, whole and healthy – it is reassuring to see people like you who assert their human right to provide themselves with the agency to take up challenges, to empower and strengthen others and to assist those who may be vulnerable.

Toronto surely is a better place because of what you do and the vigorous way in which you do it. You are owed much appreciation, much gratitude.

Let's make a quick evaluation. Toronto has much to be proud of. Yet none of us can be satisfied with the status quo. If we want a better Toronto, none of us can expect change "to just happen". We must seek change, and work for it. Cities are known to be dehumanizing places. They seem to foster anonymity. They are structured to give privacy which often results in loneliness and alone-ness.

Having such masses of people in a small area requires considerable organization – red lights/green lights, pedestrian crossings, parking meters, line-ups, written and unwritten rules, forms to be filled out, strict dates to be observed.

Our place in the city soon becomes determined by a series of numbers on our buildings, in our postal codes, our telephones, our OHIP cards. These identifiers become more important than our names, more important than our description of ourselves, the telling to others of who we are.

The necessary regimentation to make the city work requires its own bureaucracy, a bureaucracy made in its own image, one which has rules to follow and which follows the rules and enforces the rules impersonally, punctually – or not. Sometimes too strictly, sometimes not strictly enough. That's the price we pay for the anonymity of the city. When it works in our interests, we praise it. When it seems to pinch or bruise us, we condemn it.

For those who are vulnerable and marginalized, sometimes the price we pay for our anonymity is more than we can afford. We are left broken and powerless. Our anonymity is converted to loss of our status as human beings. Too bad for them, some might say.

But none of us can feel impervious to vulnerability. We may not worry about wheelchair access today, but we will if tomorrow we have a stroke or an accident. We may not worry too much about poverty until we lose our job, have a health emergency, lose our housing or lose our loved ones. In these circumstances, we tend to become "labeled", sort of a person-minus status, something less than a human being.

This leads me to talk about the late Al Gosling, an elderly gentleman who was evicted from his residence. Most of us know about Al Gosling because of Joe Fiorito, the journalist who grabbed this issue like a bulldog and refused to let it go until just about everyone in Toronto knew what had happened to Al Gosling and Toronto had been challenged to make itself more human.

Joe Fiorito asked us The Big Question. He wrote, “Was there no one person with the skills, the heart, the imagination, the initiative, the persistence or the ingenuity to find out if Al needed care, or intervention, or some simple human contact?”

He also gave us all a diagnosis. “When many different people are responsible for a problem, no one is responsible for the problem.” And that’s where you and I come in as human beings, each of us exercising our right as a human being to make sure that in the society we live in, People Count.

How interesting it is that we realize our own humanity, our own human being-ness, by insisting that others have their humanity recognized.

We have to remember that while Al Gosling had contacts with various officials in the Toronto Community Housing Corporation, he also had neighbours. What did they do? What about the other people in his building? Did they even know what had happened to Al Gosling? Did they miss him when he left his apartment? This kind of tragic story is fundamentally about our urban society losing its ability to perform as a community – an essential component of our human condition.

As individuals, you as members of tenant associations must realize that bureaucracies themselves – not the people who work in them – are entirely incapable of resolving human problems except by making us humans act more like machines.

We stand in lines and fill out forms and check little boxes and the system responds as it is designed to do. But when the system cannot respond, that is where you and I come in. We still have our moral compasses and we must have them on call and ready for action when we see a bureaucracy gone astray, an error happen that has negative, sometimes untold consequences on an individual but about which the system has not contemplated.

When we work together, we become allies in a cause. We confirm our relationship as members of the same human family, brothers and sisters, aunts and cousins, elders and youth. In working together, we confirm that we are a community; that we are not isolated in compartments of gender, sex, culture, age, class, race separating us, robbing us of the gifts each of us has to offer. When we respect one another for our unique contributions, when we honour our differences, we better position ourselves to work together for change.

I was asked to be here to talk about my work as the first Ombudsman of the City of Toronto. My job is to help the people of Toronto in their right to be treated by the City and its programs and services fairly, without bias or discrimination.

If anyone knows of anyone who believes he or she has been treated unfairly and has been unable to have the matter dealt with to their satisfaction, tell them to call us. I am independent of the public service, an Officer of Toronto City Council. Our services are offered at no cost and they are completely confidential.

With respect to housing, we receive complaints about over-enforcement – and about lack of enforcement. We get complaints about noise, transfers, property standards and everything in between.

Let me give you a concrete example of an investigation we conducted.

Mr. B complained that he was being evicted by the Toronto Community Housing Corporation which said he had committed an illegal act. Mr. B said the agency had never conducted an investigation and had never provided any evidence. The question was whether the decision to evict had followed procedural fairness.

Our investigation revealed that there had been no proper investigation of the incident that led to the eviction notice. The landlord had accepted allegations as being true without ever providing Mr. B with any notice of the allegations or an opportunity to respond. They failed to warn him that his conduct could lead to eviction and did not tell him the reason for the notice or answer his questions.

I made 12 recommendations to the Toronto Community Housing Corporation to ensure fair and thorough investigations when a complaint of serious misconduct is made against a tenant and that it acts fairly when issuing eviction notice.

It is important to understand that the Ombudsman is a place of last resort. My jurisdiction kicks in after a person has tried to resolve the issue directly, and it hasn't worked to their satisfaction.

So if a person has a complaint about city administration, and has not been able to have that complaint resolved, we are accessible, wanting to be of service especially to those persons who may be most vulnerable to mistreatment, who may be marginalized, unwell or powerless to exercise their rights.

When a complaint comes in we do a quick analysis as to its priority and complexity. We clarify the relevant issues and then engage in a series of interventions with the organization or agency involved trying to reach a resolution that is acceptable to both parties.

Most often, that is done within a short period of time while matters of greater complexity because of the facts will take longer, perhaps months if a full investigation is required. I can also conduct an investigation on my own initiative if there are repeated complaints or issues of systemic and public interest that need pursuing. We have the legal authority to enter premises, access to documents and require persons to give evidence under oath. I can issue reports and make recommendations.

Where I am unable to get agreement from the Toronto Public Service that my recommendations will be accepted, I can table a report with City Council and make the matter public, always protecting confidentiality of the complainant, of course.

Now intervening in the interests of fair treatment may sound simpler than it looks. You each know what you mean when you say you have a right to be treated fairly and we each have a pretty good idea of how fairness is supposed to be defined. But I suspect that if there are 50 people out there, we would get 50 different definitions.

If I ask a different question: "How can we ensure in our own relationships that we treat others fairly?" You might even find the question offensive. Fair? Of course I'm fair. Always, to every one.

It is always much easier for us to understand fairness when we are at the receiving end than when we are at the dealing end. Let's just say, fairness depends on circumstances and means different things to different people at different times.

Everyone has a view on 'fairness'. That view ranges from an intuitive understanding of unfairness to a deeply held personal conviction or the familiar refrain of "but that's not fair!"

Is it fair that a main road is ploughed before the street on which my residence is located? Is it fair that someone is treated differently than others? Maybe even "better" than others? Even though that person is in circumstances where special treatment is, well, is fair?

An ombudsman looks at fairness in a number of ways: First, the substance by which a decision was made. Was there legal authority to make the decision? Was the decision based on relevant information? Was the decision-maker biased?

Second, we look at the process, the procedural fairness by which a decision was reached. Was the person making the complaint given enough information? Was that person given an opportunity to make his or her case? Did the decision-maker give reasons why a particular decision was made?

Third, we can look at the practice of equity in reaching a decision. Was the process inclusive? Were issues such as power or marginalization considered? Was the agency approachable? Most of all, fairness is about common sense and it is about good business because it reduces disagreements. It engenders public trust and creates confidence in those who have the power of making decisions.

Fairness: substantive, procedural and equitable.

My team and I evaluate the decisions and actions or omissions of the Toronto Public Service, its agencies, boards and commissions. Each complaint is considered on its own merits. We review complaints to determine whether individuals have received fair and equitable treatment and whether there are broader systemic issues which must be addressed. So yes, each of us has a right to be treated fairly.

The other side of the coin is that each of us has a responsibility to treat others fairly. What does that mean in practice? Everyone personally affected by a decision should be given adequate, proper and timely notice in plain language by the decision-maker: notice that a decision is going to be made; why a decision is necessary; how the decision might affect the person; what information will be considered, what rules, procedures or requirements will be considered.

Every person should be treated equitably, with due respect for difference, circumstance and need. Existing policies, guidelines, procedures and rules should be followed consistently. There should be sensitivity to the economic reality that people with limited financial or personal resources may be at a disadvantage in presenting their case. Efforts should be taken to redress such imbalances.

I want to take a few moments to discuss this thing we call “equitable treatment”. We are often told that fairness means treating everyone the same. Treating people differently is unfair, discriminatory, right? If some people are more negatively impacted than others, well, that’s the way it goes!

With that way of thinking, if we have treated everyone equally, we are relieved of any responsibility for the results. “Just doing my job!” Equitable fairness means that people and groups are treated differently according to their special situations in order that the results are fair and inclusive.

While treating people differently may offend the principle of equality, ignoring differences may mean ignoring legitimate needs. Ignoring differences and refusing to accommodate them is denial of equal access and opportunity. It is discrimination.

To intend to be fair is important but equity focuses on the results. Equitable fairness challenges organizations to move from providing the same service to everyone in the same way and instead providing services differently according to each person’s needs, circumstances and social location.

In virtually every interaction we have, the realities of power and privilege intersect. The dynamics that flow as a result must be reflected on, acknowledged and accommodated if equitable fairness is to be achieved.

That is the challenge for all of us in all of our relationships. That is fairness seen from both ends of the telescope: being treated fairly as our right, treating others fairly as our responsibility.

In the weeks ahead, wherever we are, finding our middle ground and standing together on it, we can demonstrate our own humanity as we defend the right of others to be treated fairly.

Ask what kind of a city we want Toronto to be. What kind of environment, what kind of atmosphere do we want in our neighbourhoods, in our buildings, in our families?

Thank you for your invitation and for listening to my words.