

The Record

2013 First Quarter

Inside

I just want to say

Toronto's Ombudsman
talks about the past year

reporting back

Our 2012 Annual Report

our latest investigation

An investigation into the City's Below
Market Rent Program

whats new

Out and about

*...In the annual report just issued,
I spoke about the presence of
an independent and properly
resourced ombudsman as a sign of
good government.*

*Read about what Fiona Crean,
Toronto's Ombudsman has to say.*



I just want to say



We are off to a fast start in 2013 with the release of our 2012 annual report in early February and the tabling of a significant investigation report (see page 7) this week at City Council. More to come! Joining us soon will be a fourth ombudsman investigator that will increase our investigative capacity.

2012 saw the end of our three year strategic plan and so the team just completed a day of business planning to set out our next three year cycle from 2013 to 2015. Look out for the publication of that plan in our next newsletter.

In the annual report just issued, I spoke about the presence of an independent and properly resourced ombudsman as a sign of good government. It connotes recognition that self-remedy is generally difficult for governments to achieve, especially big governments. That is why impartial evaluation by an independent ombudsman is a sign that a healthy democracy is at work.

The following is an excerpt from the annual report.

Having an ombudsman for the City of Toronto is a recent experience—in reality just short of four years. The requirement to have an ombudsman who investigates the administration of government on behalf of the people came with the City of Toronto Act. The office's job is to protect the public's right to receive fair, equitable, competent public service.

Since the office opened, the public, elected representatives and staff at City Hall have had to come to terms with what having an ombudsman means. So perhaps it's not surprising that the past year saw increasing resistance to the presence of our office from some councillors and public servants.

At times there is confusion about the role of the Ombudsman: how can the government appoint an official whose job is to criticize the government? The confusion becomes apparent when politicians challenge the independence of the Ombudsman who was established to provide an independent review of complaints. In my view, this arises from a narrow understanding of the Ombudsman's role.

This was never more evident than during City Council's debates about ombudsman matters during the fall of 2012. The tabling of two investigation reports at Council, one about the administration of the public appointments policy and the other about TTC second-exit projects, triggered accusations that the investigation was politically motivated, that an investigation report lacked thoroughness, and suggestions there be a new reporting relationship for the Ombudsman. This proposal, which requires a legislative change, would make our office accountable to a committee instead of Council. This would undermine the office's ability to report to the legislative body as a whole, and through Council to the public at large.

It has never been more important to understand the reasons for an ombudsman's independence and the ways that the office is accountable to Council. This is particularly true in municipal government where, unlike other levels of government, legislators often act as administrators, going beyond law-making to involve themselves in day-to-day operations.

For Toronto City Council's part, safeguarding the independence of the Ombudsman's office requires sustained leadership, respect for its function and sufficient funding to enable the office to fulfill its mandate.

We have learned a lot from the challenges of introducing the Ombudsman's role to the City and making everyone aware of the implications it has for all residents. I believe mutual understanding and acceptance will grow as the office demonstrates its capacity for making significant contributions to good government.

There is an almost structural tension inherent in having an ombudsman appointed to investigate the body that funds the office. This conflict is seen most often in discussions of the Ombudsman's independence. The challenge of protecting Ombudsman independence will never go away. It will pop up for my successor, just as it has for me this year. Every time there is a controversial investigation, the independence of the Ombudsman is likely to be attacked. The context will be different, but not the underlying disagreement.

This independence is the bedrock on which the trust in the office and its impartiality is built. I will continue to fight for the independence of the office, while being highly accountable. Having an independent ombudsman is the only way the residents of this City can believe their elected representatives when they say they support accountability, transparency, fairness and equity. None of these are possible without a fully independent Ombudsman.

Our 2012 Annual Report

Three-year Plan: Our Progress

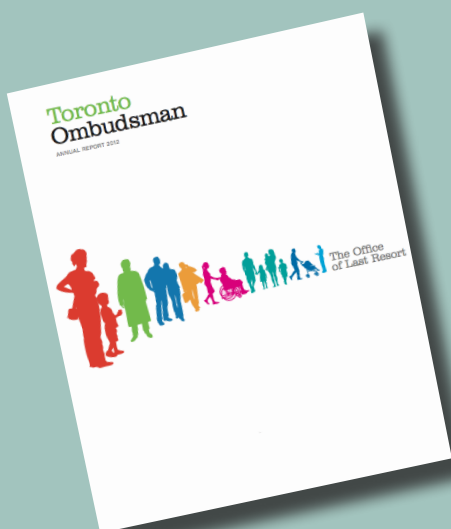
In January 2010 we set out a three-year strategic plan.

We thought that by 2012 we would be focusing on increasing the credibility of the office while undertaking major investigations and making recommendations that would improve government administration.

We expected the City of Toronto to have adopted a leadership role in being held to account and that fairness in public administration would have improved.

We also expected the Toronto Ombudsman to be a leader in municipal “ombudsmanship” internationally.

We said that we would hold ourselves to account and make the necessary improvements, setting new goals for the ensuing three years.



Investigations & Improvements to the Public Service

In the three years and eight months we have been in business, we have conducted 22 major investigations.

Together with our annual reports, these have resulted in more than 160 recommendations. Some of the recommendations entailed broad systemic changes. In every case, the recommendations make a positive difference in residents’ lives, increase public service accountability and add to transparency.

The City of Toronto accepted all the recommendations, demonstrating it is prepared to be held to account.

Training & Education

Nationally, we delivered a workshop on dementia and diminished capacity to several audiences. In 2012, we refined that work specifically to address mental health and delivered workshops to public servants, professionals and front line workers in a number of venues. With increasing demand for the topic, we continue to deliver the workshop to diverse audiences across Canada.

Internationally, the Ombudsman, through the Institute of Public Administration of Canada, spoke to a visiting study tour of senior civil servants from India and Sri Lanka about the role of the office in supporting government accountability. She also met with a Chinese delegation from the Ministry of Justice and officials from Bangladesh.



Further afield, the Ombudsman ran a three-day investigators’ training course for the Trinidad and Tobago Ombudsman. She was also the keynote speaker at the international Eurasia Ombudsman conference in Azerbaijan.

Some 2012 Case Stories



Trees, Waste, Fees, Fees - Communication Key

Mr. C had an elm tree that was pushing up against his neighbour's garage, causing damage. The neighbour called Municipal Licensing & Standards (MLS), whose inspector decided there was no imminent danger. Urban Forestry had given the neighbour a permit to remove the tree, with Mr. C's consent or a court order. Mr. C did not consent and the neighbour continued to ask MLS to re-investigate. MLS then issued an order about a second tree. Mr. C did not know from the description whether he had to remove the tree or just prune it. Meanwhile, the neighbour also complained about waste left outside the house. And, the inspection fees were beginning to pile up for Mr. C—more than \$800.

One day, a crew cut through the fence into Mr. C's backyard and removed the first elm tree. They refused to identify themselves and showed Mr. C a copy of the permit. Mr. C called the Ombudsman and we called MLS. Much information was missing from the file and photograph labels lacked detail, critical in a case involving more than one tree and several inspections. The inspector had not contacted the Cs, even though, in their 80s, they were almost always home. Some inspection dates were too close together, suggesting over-enthusiastic enforcement. The MLS manager took the complaint seriously. He discussed the errors with the inspector and reviewed with the entire team the need for good communication, clear orders and notices, and proper file management.

Result: The MLS manager visited the Cs to explain and apologize. He looked at the remaining tree and explained exactly what Mr. C had to do. He also promised to review the fees and reverse some or all of them. Mr. C was very pleased someone finally listened.

300% Rent Increase Reversed for Senior

Ms. B is a senior who receives social assistance and has lived for six years in a rent-geared-to-income Toronto Community Housing Corporation (TCHC) apartment. During a conversation about issues that seniors were facing, we heard about Ms. B. She returned from a hospital stay to find a letter from TCHC saying she was no longer eligible for a rent subsidy because documents were missing from her file. Then TCHC withdrew more than \$900 from her bank account for rent—three times what she was used to paying.

This emptied her account. Worried about eviction, Ms. B went to a legal clinic for help. They gave TCHC copies of the “missing documents,” tried to reinstate the subsidy, and make sure that TCHC would not take any more money from her account. They believed TCHC had not followed the law.

TCHC continued to ask Ms. B for the “missing documents” and sent her another letter for overdue rent of more than \$1,000. We contacted TCHC, telling them how frightening their actions were to a vulnerable senior and asked them to look into the process they had used. We were particularly concerned about the treatment she received given her vulnerability and asked the TCHC to review the matter and they agreed to do so.

Result: TCHC reinstated Ms. B’s rent subsidy.



Repairing City damage - Unclear Process

Ms. T had a small leak on her water meter and she called Toronto Water to fix it. The City worker accidentally snapped the pipe that held the meter. He turned off the water, then hooked Ms. T up to her neighbour’s pipe so she would have access to water until her pipe was fixed. No one told Ms. T what she was supposed to do next.

Ms. T sent Toronto Water a number of emails and got consent to get three quotes for the repair work. It then took four days for the repairs to be completed. No one told her who was responsible for paying for the repairs. When she contacted Toronto Water, she was told that a manager was reviewing the matter. The manager later told her she should make a claim with the City insurer. After several attempts to resolve the matter with Toronto Water, Ms. T called her Councillor who referred her to the Ombudsman. We called Toronto Water, who told us they were not aware the matter was outstanding. The manager we spoke to said he would review the file and contact Ms. T directly.

Result: As Ms. T wrote, “the water meter situation has been totally resolved...I didn’t get all of my money back but I was satisfied with the amount I did get.”

Stats & Trends of 2012

The Office of the Ombudsman handled 1,430 complaints in 2012. Seven investigations were completed, six of which were systemic reviews and one an individual investigation. The five most common ombudsman issues remained similar to those reported for 2011: poor communication; inadequate, poor or denied service; unpredictable enforcement; wrong, unreasonable or unfair decision; and unreasonable delay.

The Key Trends



Our Latest Investigation

Promises Made, Promises Broken: An Investigation into the City's Below Market Rent Program

Toronto's Below-Market Rent (BMR) program allows non-profit community groups to lease City space in a way that is cost-neutral to the City, by requiring those groups to pay for the operating costs of the space they lease. In return, these community agencies provide valuable programs to residents at a lower cost than the City could otherwise provide.

Six BMR tenants complained to the Ombudsman that the City was raising their rent by 550% from \$3.20 per square foot to \$17.74 and had failed to provide an adequate explanation for the increase.

The Ombudsman's investigation found that the staff from Social Development, Finance and Administration tried to facilitate communication, but both Real Estate Services and Facilities Management staff failed to meet basic standards of service.

City staff had warned the Complainants orally that their rate would be increasing, but their estimates changed constantly, and they failed to provide promised information to justify the new rates. No written notice of an increase was ever issued.

The investigation found chronic delays. Promised deadlines were missed by many months, and sometimes, years. When the information on operating costs was finally provided, it was so general it was of little use.

The new rate was applied retroactively, and the Complainants were told they were in arrears by over \$85,000.00. As none of the agencies could pay this, staff insisted they seek City Council's permission for a "one time grant." The Ombudsman found that BMR tenants in comparable situations were not subject to this requirement.

While a \$13.00 per square foot rate had been used in discussions with the Complainants for the four months preceding the Council meeting, staff used a figure of \$17.74 in the Council motion. No one advised the Complainants of the change.

Over seven years, Real Estate improperly charged one non-profit group more than \$20,000 for property taxes, when none were owed. Although staff identified the error in 2008, no correction was made, and the charges continued until 2013.

The Ombudsman made 22 recommendations, addressing systemic issues of poor service, communication and record keeping, as well as the specific situation of the Complainants. The City Manager accepted all the recommendations.



Out and About



In 2012, the Ombudsman's Office worked with over 60 organizations and held public information sessions with more than 1,500 residents. We met with community organizations, libraries, places of worship, and community leaders to engage diverse communities, focused in Woburn, Malvern, Rouge, and L'Amoreaux. Presentations at ESL and LINC classes, speaking engagements at various organizations, meetings, and special events were used to reach community members. Members from the Ethnic Media have played a vital role by communicating our message in different languages.

We also focused on continuing information sessions across the Toronto Public Service with about 2,000 Toronto Employment & Social Services staffers, the TTC and Municipal Licensing & Standards' management groups, and many Revenue Services and Recreation employees. The Ombudsman accepted speaking engagements, including the Toronto Board of Trade, University of Western Ontario's Local Government Program, Durham Elder Abuse Network Conference, CBC retirees, National Ethnic Press and Media Council of Canada, town halls with Scarborough and Parkdale-High Park residents, Toronto District Catholic School Board, Urban Alliance on Race Relations, Toronto Social Planning Council, Toronto Community Housing Board of Directors, Tamil seniors, Bangladeshi youth, Agincourt Community Services, and Thorncliffe community sessions.

What's New in 2013



Reema Patel joins us this month as our newest ombudsman investigator. A lawyer by training with an undergraduate degree in political science and international development studies, Reema completed her articles with the Ministry of Education, Training, Colleges and Universities. Most recently, she worked at the Ontario Ombudsman's office. There she handled front line files resolving complaints between citizens and government agencies.

Working in Mumbai with the Human Rights Law Network, Reema spent a year there working with Street Kids International & Railway Children India. A keen volunteer, we are looking forward to Reema coming on board.



Community Session in Scarborough with Chinese seniors in Fall 2012

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Annual Report and subscribe
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website: \[ombudstoronto.ca\]\(http://ombudstoronto.ca\)](#)

about Toronto's Ombudsman

1. We are impartial investigators.
2. We are independent from the Toronto Public Service.
3. We advocate for fairness.
4. We are an office of "last resort."
5. We offer information sessions.
6. Our services are confidential and at no cost.