

Notes for Remarks

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***Equitable Public Service Standards for Zoomers:
An Ombudsman's Perspective***

Thank you for this opportunity to share with you the work that I do as your Ombudsman for the City of Toronto.

I wanted to put “equity” up front in talking about the standards we expect to be observed by our public service. “Equity” is a new concept for many of us who were raised in the days when “equality” was the hallmark of democracy.

The problem is that we are not all at the same starting place, and we are not all the same.

So, let's start with our context: Toronto has been the economic engine of the country. It is one of the most multi-racial cities in the world. About 20% of our residents live with disabilities.

We have a tsunami of older citizens becoming ill with dementia. In 2005, more than 1 out of four families were low-income, up from one in six in 1990. Many of us struggle economically, living in high rises beyond the downtown core with limited transportation or access to basic services.

Power, privilege, attitudes, prejudice and the so called “mainstream” function to create policies, practices and processes that often alienate, exclude and discriminate against those of us who are not in power, those of us without influence, those of us not at the table, those of us unable to exercise our rights in ways that will be heard or acted on.

The necessary regimentation to make the City work requires its own bureaucracy. It is a bureaucracy made in its own image, one which has rules to follow and which follows the rules, and enforces the rules, punctually—or not, sometimes too strictly, sometimes not strictly enough. 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 is more than we can afford. 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 you will if tomorrow you 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, lose our loved ones. In these circumstances, we tend to become labelled, sort of a person-minus-status, something less than a human being.

Equity means taking individual situations into account, accommodating them, and in that way, ensuring a fair result and appropriate respect in the process of reaching that result. Treating people differently to provide access to the same result is key. To intend to be fair is important but *it is the result that matters*.

I'm hoping to recruit you, actually, to join me in making Toronto a better place to live by making government more accountable to the people.

Democracy isn't just about elections. We know that democracy is about an independent judiciary, a free press, the right to associate, freedom of religion, dissent and expression, and so on.

But it is also about due process, accountable and transparent local government. It is about how government treats its citizens and most of all - its most voiceless residents.

And that is where your City Ombudsman can help.

For those who may not be all that sure about what it is that an ombudsman actually does, we investigate the public's complaints about the administration of city government, including most of its agencies, boards and commissions.

We are an office of last resort for residents to turn to when all else has failed. I am an Officer of City Council independent from the public service. The ombudsman concept involves the public, on the one hand, and the public service, on the other. I am squarely in the middle –impartial– with no vested interest in the outcome of a complaint except to ensure that the public is treated fairly by the city's public service. We are advocates for fairness.

In 2010, 1,562 unresolved complaints came to us. We consider every complaint on its own merits. Where there is disagreement about the facts, I have powers to investigate which I did in nine such cases last year.

In 2010, we found some clear patterns in the Toronto Public Service. Poor communication topped the list. This often translates into unreasonable delay, poor service followed by faulty decisions and a number of related problems. These issues can only be addressed through systemic inquiries. It is those investigations that result in the fix for thousands of residents, rather than dealing with the same issue again and again at the individual level.

Not only does a systemic investigation eliminate future complaints and improve the quality of service for all residents, including those less likely to complain, but it has the potential to save large amounts of money and resources.

A number of my recommendations brought forward through my 2010 annual report and specific investigations have now been fulfilled by the public service. Customer service standards have been posted on the City's website. Standards are being set for record keeping on all service transactions with the public. Service standards are being worked on with clearly documented expectations, including timelines, for written and oral communications with residents.

Departments across the public service are making the public aware of their complaint systems so that you know how to complain, how to raise issues. These matters can

then be resolved at the source, and only as a last resort when a complaint remains unresolved does the citizen have to turn to our office.

As a result of acting on these commitments, the Toronto Public Service has increased the accountability of city government. That's what an ombudsman does.

It is common practice these days to speak about "customer service" in public administration. I've used the term myself.

But the more I think about it, the more I realize the relationship between the public and the public service has some significant differences from the relationship between customer and commercial service provider. Residents are not "customers" because the City is not "a business."

The bottom line of a city is people and their well-being. True, in this equation, the city's administration can learn much from the business community: how to be more efficient, how to use innovation, how to provide better service. After all, in this same sense, business has astutely learned from government about the ombudsman, once found only in government, but now found in banking, industry, airlines and many other sectors.

First, the City of Toronto has a monopoly on public services – a resident has nowhere else to go when the quality of service is not up to standard.

Second, the services provided to the public by public servants affect the lives of the people in very fundamental ways. They are the superstructure of our very existence in the very global village we call Toronto; they are closer to the heartbeat of our daily lives.

Third, in the evolution of Canadian democracy and government, public service is about features of urban life which the public takes for granted will be there for them: parks, libraries, policing, education, water, protection of the public's health, for example.

Governments provide services which must be enjoyed by all the people, not just a select few, especially services which cannot or should not be provided at a profit. This means the resident, the public, is not a customer, but has paid out of their own pockets for the services being provided, and the public has the right to have value given for money spent.

Fourth, unlike customers, the public are the ultimate controllers of the city enterprise.

Ultimately, the public decides the level of services which it wishes to enjoy and willing to pay for through the levying of taxes.

These are not characteristics from which we can choose the ones we like and reject those we don't like. This is an integrated comprehensive arrangement which requires all these features to provide balance and fairness to make the City work, to make democratic government work.

We expect not only service, but we also demand accountability in our relationship. Businesses are not accountable to their clients; they need only to provide a level of service which results in meeting their bottom line expectations.

But as the people of Toronto, you and I are concerned about the quality of life for our neighbours, for all the people of Toronto. We want them to have the same high standard of service that we expect for ourselves. And by and large, the Toronto Public Service does pretty well.

Our experience is that they generally are conscientious, work hard, go the extra mile, and take the public interest to heart day after day.

On the other hand, there are those individuals who have forgotten the meaning of public service and put their own self-interest first. There are also those who, for whatever reason, demonstrate poor communication, shoddy service, deficient record-keeping, and make decisions without explanation and with far too many unacceptable delays.

This is what must change. Toronto can't afford to do less.

The word "ombudsman" is Swedish and means, "representative of the people." I believe I have a special responsibility to ensure the Office of the Ombudsman is serving all the people and "all the people" means those who are too poor, too powerless, too old, too young, too disabled and those too inexperienced or overwhelmed to navigate the complex systems of modern bureaucracy.

These are the very people who are going to have greater contact with government, and too often greater difficulty in their relationships with government, the ones most likely to require and to benefit from the services provided by the Ombudsman.

It is easy to understand that the first people who came to our office when we opened were typically better educated and more affluent than the average Toronto resident. There is no question that they are fully entitled to our service. But that entitlement is no greater than persons who do not know even that the Ombudsman exists, or whose experience with government has been so disappointing that they feel complaining is futile. It is my own abiding commitment to ensure that my office is broadly known, accessible to all people.

We are an office of "last resort." We step in when a complainant has no place left to go. The Ombudsman's services are offered at no cost, and are completely confidential.

Let me put some faces to our investigations. The City's office of Municipal Licensing and Standards 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, I decided to investigate the complaint on my own initiative.

Over a period of nine months, the owner's son had 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*.

I 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 her own behalf.

I 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 included an apology to the resident and her son, a reversal of all levies charged for the removal of the tree and a replacement of the tree.

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

Or take the case of Mr. M, the City Parks staff banned him from all Toronto-run parks and community centres for one year, saying Mr. M had abused their staff. After the year, he asked for the ban to be lifted. Tensions continued and city staff responded by imposing an indefinite ban.

Mr. M complained to my office. My investigation revealed that the indefinite ban was based mostly on historical interactions that staff had had with Mr. M. In effect, he was being doubly punished. We found that a lifetime ban was excessive and unjust. We 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.

I recommended that Parks 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. Parks implemented all of my recommendations.

That is what I do as the Ombudsman for the City of Toronto.

I leave you with this thought:

Tonight, tomorrow, and beyond, wherever you go, in whatever you do, *engage in the dialogue*; ask what kind of a city do we want Toronto to be? What kind of environment do we want in our neighbourhoods, in our communities?

As Justice Rosalie Abella of our Supreme Court said recently:

Indifference is injustice's incubator.

It's not just what you stand for, it's what you stand up for.

We must never forget how the world looks to those who are vulnerable.

This is your call to action—let us work together in making Toronto a better place to live by making government more accountable to the people.