

“All you need to know if the Ombudsman calls”

Ontario East Municipal Conference

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**Kingston
September 14, 2016**

Intro

- 1 Good afternoon, and thank you for being here today. It's an honour to be here on the first full day of your annual conference.
- 2 *Bonjour, et merci d'être ici. C'est un honneur d'être avec vous pour la première journée de votre conférence annuelle.*
- 3 I do feel privileged to be part of your conference. You've all come together here to discuss building and strengthening communities. And as the largest regional conference east of Toronto, you've attracted a big and wonderful group of like-minded people.
- 4 Building and strengthening communities isn't done alone. It requires co-ordination and partnership between local government, businesses and community leaders.
- 5 There are challenges that you'll face along the way. Development in a city of 100,000 looks different than development in a town of 3,000. Planning and growing an urban community is vastly different than planning and growing a rural community.
- 6 But you're here to take those challenges on together, bringing expertise from multiple areas and ensuring that you are building a strong future, both in terms of your community partnerships and your economies.
- 7 Part of making a municipality stronger is to make sure it has strong, accountable leadership from the top down, and a way for citizens to ensure their municipal officials and staff are conducting themselves in the best interests of the community.
- 8 I am sure that the citizens you serve would agree that preserving and reinforcing the foundations of democratic government (namely;

transparency and accountability) is just as important as updating infrastructure or boosting the economy.

- 9 At my office, we took on the task of overseeing the governance provided by Ontario's 444 municipalities on January 1. And I'm here today to assure you that our end goal – a fair and accountable public sector – is the same as yours.
- 10 Our work is not just about handling complaints. It is aimed at improving governance. We take complaints about municipal issues, and when we resolve those complaints, our aim is to improve the processes and procedures that led them to our office – ultimately creating a stronger, more sustainable local government.
- 11 *Notre travail vise à améliorer la gouvernance. Nous prenons les plaintes sur les problèmes municipaux et, alors que nous nous efforçons de les régler, notre objectif est d'améliorer les processus et procédures qui les ont causés – pour avoir en fin de compte un gouvernement local plus fort, plus durable.*
- 12 But our role is to do more than just handle complaints. We seek to build productive, appropriate, and collaborative relationships with all stakeholders to enhance communication, resolve issues, promote fairness, and ultimately; enhance governance.
- 13 That's why I'm here today. I want to explain our role and approach and suggest what you can do on your end to make sure your complaint procedures are robust and effective. And I want to share with you a bit about our work, what to expect if and when we contact you.

What is an Ombudsman?

- 14 But first, please indulge me as I tell you a bit about our office.

- 15 I know many of you are quite familiar with us because of our role as closed meeting investigator.
- 16 Our Office has been the investigator for approximately half of all Ontario municipalities since 2008. This has given our staff valuable experience with municipalities, and helped us understand that you are all different in your own way. It has allowed us to help citizens with hundreds of complaints, and help councils ensure that their meeting practices are open, transparent and consistent with the law.
- 17 Unfortunately, I know it also led to a lot of confusion and concern, because it cast the Ombudsman's office in a law enforcement role. For many people, this created the mistaken belief that our role was to police local councils, which is not at all what we do. An enforcement role simply doesn't allow an ombudsman's office to play to its strengths.
- 18 What an ombudsman's office normally does – and what ours excels at – is to resolve most complaints informally. We do a great deal of work behind the scenes helping citizens who have problems with bureaucracy or feel they are being treated unfairly by public sector bodies. We call this “maladministration” and try to get people the help they need and get issues resolved at the lowest level possible. We look for simple, sensible solutions to problems, usually without having to resort to formal investigations.
- 19 And we do that hundreds of times per month. That very important and successful work does not get much fanfare.
- 20 But we have many examples of these individual success stories, which we share in our annual reports, on our website and on social media, and in our monthly newsletters. We have already shared several good news stories about municipalities, and there will be a lot more to come.

- 21 This is the kind of work our office has done for more than 40 years at the provincial level. I think it's helpful to have that historical perspective. I know that from the municipal vantage point, it may have seemed that the expansion of our mandate came quickly. But it's actually something that goes back to the inception of our Office.
- 22 The very first Ombudsman, Arthur Maloney, opened his office in 1975. Right away, he noticed that he was receiving hundreds of complaints that weren't about the Ontario government – they were about municipalities, the level of government closest to the people. Unfortunately, the Ombudsman Act didn't allow for Mr. Maloney's office to help these people. As the complaints mounted, he called for the Act to be amended. And it finally was – in 2014.
- 23 The good news about this long incubation period is that the Ombudsman's Office had 40 years to demonstrate its value to citizens in improving provincial government services. That's 40 years of what Mr. Maloney called "humanizing government." Forty years of developing relationships with senior public servants throughout the provincial bureaucracy, right up to deputy ministers and ministers.
- 24 I can tell you about one particular case that illustrates the coordination between municipalities and other organizations, which are necessary to strengthen communities. After narrowly escaping being hit by a train near her home, a woman in rural Ontario requested an automatic signal be installed at the crossing to prevent any future accidents.
- 25 Both the municipality and the Ontario Northland Transportation Commission initially refused to pay for the work. The Commission, who owned the track, advised our Office that they would not object to the installation of the signal, at the municipality's expense. On the other hand, the municipality, who owned the road, believed it was up to the Commission to foot the bill.

- 26** When we looked into the matter, we found that ownership of the crossing had been in dispute for over 50 years. But, after some shuttle diplomacy by our office, the Commission offered to share the cost of the new signal with the municipality, who agreed to this proposal.
- 27** The collaboration between the municipality and the Commission is just one example that shows the benefits of co-operation and collaboration to improve services for the community and local businesses.
- 28** Occasionally, in the various areas of our jurisdiction, we will come across issues that haven't been resolved and that warrant a formal investigation. Even more rarely, we will tackle broad, systemic problems that affect hundreds or even millions of people. Those are the cases you probably have heard about – such as our investigation last year into the massive billing problems at Hydro One.
- 29** In those cases, we will publish a report with recommendations – and those recommendations are almost always accepted, because we suggest feasible solutions that improve public services. Our aim is not just to resolve individual complaints, but to make sure the underlying problems are fixed and future complaints are averted.
- 30** We collaborate with the public sector body involved to ensure we have all the relevant facts and that our recommendations are feasible. Then we use moral suasion to convince that body to do the right thing and accept our recommendations. And frankly, we usually demonstrate that it is in that body's own interests in the long run to do the right thing.
- 31** On August 24th, I released a report on our investigation into the province's services for adults with developmental disabilities who are in crisis situations. The report details cases of adults with developmental disabilities and complex needs who were left homeless, abused, abandoned, or inappropriately housed in hospitals, long-term care facilities and jails.

- 32 One man with autism spent 12 years in psychiatric units. One woman who couldn't remain in an abusive home was moved 20 times in 34 days. Another woman was abandoned by an exhausted, ill relative after two of her other caregivers died.
- 33 These are harrowing situations, and extreme examples of the difficulties people with developmental disabilities face when there are no supports in place to help them. We helped resolve these individual issues while the broader, systemic investigation continued.
- 34 We helped find placements, services, and support for many individuals while we investigated the system that was failing them.
- 35 After a lengthy investigation and an intense collaborative process, we made 60 recommendations to the Ministry of Community and Social Services to improve the way they handle these crisis situations. Immediately following the release of the report, Minister Helena Jaczek committed to implementing all 60 of our recommendations, one of which included reporting back to our office in 6 months, and every 6 months moving forward.
- 36 This is a good example of the broad impacts of our work – work that affects large segments of our society – including the most vulnerable - and touches the lives of people in all corners of our province.
- 37 In this case, we were able to help the individuals while recommending broad, sweeping changes that affect hundreds, and thousands, of people.
- 38 I call this a win-win-win. *C'est ce que j'appelle une solution gagnant-gagnant-gagnant.* It's a win for the people we helped, whose lives were so drastically affected by these serious issues. It's a win for the public servants involved, who are often well aware of the problems but don't have the wherewithal to get them fixed. And it's a win for us because

our recommendations are accepted and the value of our Office is reinforced. Our solutions usually benefit all stakeholders.

- 39** Of course, most of our work doesn't involve large-scale, systemic investigations. In fact, most of our work is informal, quiet, and done by our competent staff behind the scenes.
- 40** This should not come as a surprise. That's because the vast majority of complaints have been resolved quickly and informally. This is especially true for our complaints about municipalities.
- 41** While we've had more than 2,200 complaints about municipalities, a huge chunk of them – about eighty percent – have already been closed. Almost all of them have been resolved informally.
- 42** In fact, most complaints have been referred back to the proper local mechanisms or to other organizations outside our jurisdiction. In some cases, our staff have made informal inquiries with the relevant municipal officials. Most of the time, they are able to resolve problems to everyone's satisfaction, all without need for a formal investigation.
- 43** And how many formal investigations have we launched? As of today, only two.
- 44** What are people complaining about with respect to municipalities? You can probably guess. In the winter, it was snow removal, now it's water and sewer issues or garbage collection. Ontario Works, housing programs and, of course, bylaw enforcement account for a lot of complaints. As does customer service in general.
- 45** I'd like to share with you a look into what people are complaining about. We track complaint trends and patterns, which helps us see the broad picture and determine if there are common issues across municipalities.

- 46** About 30% of municipal complaints we received were about councils or committees; these were often referred to local accountability officers such as integrity commissioners or similar roles. (I can tell you that we have been encouraging municipalities to develop Codes of Conduct and appoint local accountability officers for years now. I will say more about that in a moment).
- 47** We also see complaints about bylaws and bylaw enforcement. Sewer and hydro are common complaint topics, too, as are infrastructure and social services like Ontario Works. But what's important is that the majority of these complaints are solved informally, without the need for a formal investigation.
- 48** We have many good examples of informal resolutions already. Recently, one of our staff helped a 16-year-old homeless youth get Ontario Works funding after it was initially denied at the municipal level.
- 49** And in February, we helped a man sort out a longstanding problem with a snow-covered sidewalk in front of his home. It only took a few phone calls from our staff to determine that his property had been inadvertently removed from the snow removal crew's route.
- 50** However, the number one most common topic of complaints so far has been municipal councils themselves. This category includes complaints about council members and their conduct, policies and decisions of councils (which, generally speaking, we do not get involved in), as well as communications and conflict of interest.
- 51** As with all other complaints we receive, the first thing we do when we receive a complaint like this is determine if it can be resolved locally.

- 52 *Comme pour toutes les plaintes que nous recevons, la première chose que nous faisons dès la réception d'une telle plainte est de déterminer si elle peut être réglée localement.*
- 53 And this where you can ask yourselves, what can our municipality do to make sure we're able to help the people in our community?
- 54 Do you have a process for handling local complaints? Do you have a code of conduct? Better yet, do you have a local accountability officer, like an integrity commissioner, an ombudsman or both?
- 55 All of this will make your municipality more accountable, more open, and ultimately, a stronger and better government for the people you serve. And the more faith citizens have in the transparency and accountability of local government, the more they will accept and support the decisions of local government.
- 56 From the start of this expansion of our mandate, our office has made it clear that we encourage municipalities to have their own accountability officers, and clear processes for dealing with complaints. Our role is to be there for your citizens as a last resort, to ensure local mechanisms are working well, and to recommend ways they can be improved.
- 57 This is exactly what we have done at the provincial level for more than 40 years. We don't substitute ourselves for provincial investigative bodies or administrative tribunals. We don't redo their investigations or reopen their files. Rather, we review the actions they took and, where warranted, recommend reforms.
- 58 We are doing the same thing with municipal complaints. If it's a matter that the municipality or its integrity commissioner or local ombudsman is dealing with, we won't intervene. If those avenues have been exhausted, or if it's beyond their scope, then we will review it.

- 59 We will look at the circumstances and the reasons for the decision. Did your officials act in accordance with the relevant legislation? Did they consider the issues? Did they provide sufficient reasons for their actions?
- 60 We help improve the process for all concerned. For example, a council member complained that she wasn't told that the integrity commissioner's report on her conduct would be discussed at an open meeting. After our staff made informal inquiries with the municipality, it made changes to ensure that all parties are given clear information about how code-of-conduct issues are handled.
- 61 Of course, not all complaints can be resolved easily and informally. Occasionally, the watchdog has to show its teeth, and sometimes a formal investigation is warranted. I can promise you that IF OR when we do launch a formal investigation related to your municipality, you will be informed. You will receive formal notice and – according to our standard practice of over 40 years – you will have a chance to respond to our findings before any report is released. My motto is “no surprises.”
- 62 As an ombudsman promoting procedural fairness, I have always been careful to proceed fairly. Parties are entitled to know what we are looking into and have ample opportunity to have their input considered, as well as receive an explanation of the reasons for a decision.
- 63 *En tant qu'ombudsman chargé de promouvoir l'équité procédurale, j'ai toujours eu le souci d'agir équitablement. Les parties en cause sont en droit de savoir ce que nous examinons et d'avoir amplement l'occasion d'exprimer leurs commentaires, ainsi que d'obtenir une explication sur les raisons de toute décision.*
- 64 Once again, you can prepare for this simply by putting in place some local accountability processes. We have seen quite a lot of variation across municipalities so far – some have a code of conduct but no

integrity commissioner; some have neither. If and when we do conduct a formal investigation where this is an issue, I can tell you that I won't hesitate to recommend that the municipality take these steps as a way of improving local accountability.

- 65** I am being asked regularly these days what our office is doing to encourage and promote the establishment of accountability officers at the local level. How are we responding to local councils who say there's no need to set up such an office because the Ombudsman will do it for free?
- 66** We have said all along that our role is not to replace local accountability officers. That would not be feasible, or advisable. Again, local problems are best solved locally. The Ombudsman's best role is as a last resort.
- 67** Our Office has said this in our last two annual reports, our latest province-wide report on closed meetings, and in press releases before and after the implementation of our new oversight. We've said it in articles, interviews, webinars, and in at least 30 slide presentations so far. We also stressed this point in consultations with the Minister of Municipal Affairs.
- 68** But lest there still be any doubt, I am happy to reiterate it here today, and as often as I need to in the future: I encourage municipalities to have codes of conduct and local accountability officers. This is simply in the best interests of local democracy, and of the people we all serve.
- 69** My Office's role is to ensure that those mechanisms are functioning as they should. And to help, wherever possible, by recommending solutions and best practices to bolster those efforts.
- 70** We will also use our unique position and powers to monitor and address issues that are beyond the scope of local officials, outside of their jurisdiction. We constantly track the issues that we see across the

province, watching for trends – in particular, problems that may be recurring or spreading across municipalities. Our powers of investigation can take us into places where local accountability officers cannot go. And don't forget: If we find the issue relates to bodies in our provincial jurisdiction, we can go there, too.

- 71 Finally, I want to assure you that being prepared for Ombudsman oversight works both ways. My office has been working to prepare for our oversight of municipalities for more than two years.
- 72 Last fall, many municipalities participated in our roundtable consultations in partnership with Canada's Public Policy Forum. The feedback we received was enormously helpful, and for those of you who may have attended, I thank you for sharing your expertise and your candid views with us.
- 73 Here's a bit what we heard at those roundtables. People from municipalities like Sudbury, Thunder Bay, Sault Ste. Marie, Ottawa, and Toronto told us they wanted more materials providing information about our office and how we work, like webinars and brochures. They told us we should do more outreach. They wanted more statistics and details about the types of complaints we receive, and how we resolve them.
- 74 We've taken all of this into consideration when planning our future outreach events, as well as with the information we put on our website or in other public materials. We've hosted webinars and posted videos on YouTube, as well as posted information about our complaints in our newsletter and to provide it at events like this.
- 75 *L'une de mes priorités est de rencontrer le plus d'intervenants possible dans notre nouveau secteur de surveillance et de dialoguer avec eux. Vous nous verrez donc, moi et mon équipe, un peu partout dans la province, lors de conférences municipales, de salons professionnels et d'ateliers dans chaque région.*

- 76** I have also made it a priority to meet and speak to as many stakeholders in our new jurisdiction as I can. You will see me and my team all over the province, participating in municipal conferences, trade shows and workshops in every region.
- 77** Recently, I was able to attend the annual conference for the Association of Municipalities of Ontario, in Windsor. It was my first AMO conference, and it was a very productive and engaging few days. My team and I spoke with people from more than 80 different municipalities. We answered their questions and were happy to receive their suggestions and feedback. I'll certainly be attending future AMO conferences, and other regional conferences like this one, to better understand the issues and challenges you deal with.
- 78** I hope all of this demonstrates our commitment to working with you. We all share the common goal of ensuring transparent, accountable local government.
- 79** *J'espère que tout ceci montre à quel point nous sommes bien préparés pour cette nouvelle responsabilité, ainsi que notre engagement à travailler avec vous. Nous partageons tous le but commun de garantir la transparence et la responsabilisation au gouvernement local.*
- 80** Thank you again for this opportunity. I recognize that in some contexts, people don't like to say "I hope we meet again." But if we do, I believe that it can be a positive experience for you – either to have your practices vindicated by a credible and independent Ombudsman, or to receive constructive feedback that will help you be more responsive to the needs of your stakeholders.
- 81** In the meantime, I'm happy to answer questions today if time permits, and I invite you to contact my office if you have anything else you'd like to discuss.

82 *Thanks again for this invitation and enjoy the rest of your conference. Merci, et profitez bien du reste de la conférence.*