



Appointment of Municipal Ombudsman

Committee of the Whole
February 22, 2016



Purpose

- Outline impact of Bill 8, *Public Sector & MPP Accountability and Transparency Act, 2014* (the Act) on the Town; and,
- Background on the recommendation to appoint a Municipal Ombudsman with oversight of the Town, applicable local boards & Newmarket-Tay Power Distribution, Ltd.

Background

- Royal Assent received December 11, 2014
- The purpose of the Act is to enhance & strengthen current local accountability & transparency measures
- Act amends 11 statutes, including:
 - *Municipal Act*
 - *Municipal Freedom of Information & Protection of Privacy Act* (MFIPPA)
- Key impacts to Town effective January 1, 2016:
Corporate records & authority of the PO

Corporate Records

- Amendments reinforce standards for municipal records preservation, retention & access
- MFIPPA amended to require Clerk to take reasonable measures to ensure records preserved in accordance with records retention policy
- Establishes an offence for altering, concealing or destroying a record with intention of denying right of access under an MFIPPA request (\$5K fine, 2-year limitation period)

Corporate Records

Achievements

- Records Retention Policy (2012)
- Departmental training, Corporate Records Committee (2012, ongoing)
- Protection of Personal Information Policy (2014)
- Routine Disclosure of Records Policy (2015)
 - Searchable FOI records web page
 - Summary of FOI activities web page

Provincial Ombudsman



Background

- Ombudsman Swedish for “citizen representative”
- Focus on administrative conduct, such as ensuring quality & fair access to services
- Broader systemic issues
- Office of “last resort”
- Provincial Ombudsman (PO) does not “advocate” for complainants

Provincial Ombudsman



Background

- Not all PO complaints result in an investigation (i.e., many complaints dealt with through an early resolution process)
- PO cannot overturn decisions of the Town & local accountability officers
- Bill 8 does not effect existing Closed Meeting Investigator appointment (LAS)
- PO does not duplicated the work of local officials, including local accountability officers
- PO makes non-binding recommendations to the Town, without penalties

Provincial Ombudsman

Jurisdiction

- Unless a municipality appoints a Municipal Ombudsman, has authority to investigate a municipality, local board or municipally-controlled corporations

Exceptions

- Complainant must exhaust an existing right of appeal, hearing by court or tribunal or review process first
- Legal advice not subject to review

Provincial Ombudsman



Accountability Officer	When PO can investigate
Closed Meeting Investigator	Where accountability officer has refused to investigate or conducted & concluded an investigation or an applicable time limit has concluded
Integrity Commissioner	
Lobbyist Registrar	
Auditor General	
Municipal Ombudsman	

Provincial Ombudsman

- PO must inform Mayor & give Town an opportunity to make representations if PO has grounds to make recommendations which adversely affect Town
- *Council's* discussion re: ongoing PO investigation or Closed Meeting Investigator shall be closed to public
- PO funded by Provincial Budget. Additional 50 staff will be recruited (increase of \$7.2 million budget) to support new mandate

Municipal Ombudsman

- PO has indicated strong support for local accountability officers (e.g., Municipal Ombudsman) & local complaint mechanisms
- Similar mandate as PO for Town, local boards & municipally controlled corporations
- PO retains jurisdiction over Newmarket Public Library Board

Municipal Ombudsman

- York Region issued RFP for Municipal Ombudsman services with cooperative purchasing clause
- Improved coordination of local complaints, understanding of local context reflected in recommendations & capacity to respond
- Regional Council appointed ADR Chambers as Municipal Ombudsman for a five (5) year term
- Recommend appointment of a Municipal Ombudsman, with oversight of the Town, applicable local boards & Newmarket-Tay Power Distribution, Ltd.

Municipal Ombudsman



ADR Chambers

- 20 years experience: arbitration & investigation services in public & private sectors
- Bank ombudsman for Royal Bank of Canada, TD Bank & Direct Cash Bank
- Ombudsman services for Financial Services Commission of Ontario
- Integrity Commissioner for the City of Markham
- \$12K annual retainer: paid by York Region
- \$250/hr service fee: paid by Town
- Optional \$4K annual report: paid by Town

Next Steps

- Clear, consistent complaint protocols (e.g., policy, staff training) help to reduce involvement of PO, Municipal Ombudsman
- Customer Complaint Policy & related protocols to come forward to Committee of the Whole
- Staff training program in development
- Staff to work with ADR Chambers to develop complaint intake process
- Orientation for local boards & Newmarket-Tay Power Distribution, Ltd.

Questions?

