



“The Value of Ombudsman Oversight”

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**Ontario Good Roads Association / Rural Ontario
Municipalities Association Joint Conference**

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- 1 Thank you all for being here so bright and early this morning. It's a great privilege to address this conference at such an important time for our organizations. I also bring greetings from the soon-to-be new Ombudsman of Ontario, Mr. Paul Dubé, who was appointed by the Legislative Assembly last week, and will begin his five-year appointment on April 1.
- 2 As I'm sure you've heard, Mr. Dubé was previously the federal Taxpayers' Ombudsman in Ottawa, and he is in the process of relocating to Toronto. I know he is eager to work with you on municipal issues as we move forward with our new mandate. He has asked me to tell you that he looks forward to fostering productive relationships with stakeholders, and that His approach to the role of Ombudsman is to seek, whenever possible, to resolve complaints at the lowest level, and to proactively prevent complaints from arising through education and dialogue. I can tell you, I was very happy to hear this, as we share the same vision.
- 3 Our office is glad to see that the theme of this conference is "The Value Proposition," based on the premise that municipalities are the order of government that has the biggest impact on the daily lives of citizens.
- 4 It might surprise you to know that the Office of the Ontario Ombudsman has always shared this view. That's why the very first Ombudsman, Arthur Maloney, made the case for his mandate to include municipalities more than 40 years ago.
- 5 As he put it, municipalities "have important decision-making powers and take actions which affect the lives of all of us." I would add that they are the level of government that is literally closest to home; the one whose services we are most likely to interact with day-to-day.
- 6 But you all know that municipalities prove their value to citizens every day. Today, I have a value proposition of my own – I am proposing to show you the value of the Ombudsman, by showing how we can help you and improve how you serve citizens.
- 7 To explain how, let me continue with Arthur Maloney. He had barely opened his office as Ontario Ombudsman in 1975 when he noticed that many of the complaints he was receiving weren't about the Ontario government at all. 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.
- 8 Around the same time, other provinces were establishing ombudsman offices, and most of them *did* include municipalities in their mandates. There are now six

other provinces whose ombudsmen oversee municipalities – including Saskatchewan, where the law just changed in November. Do you know how many municipalities my colleague in Saskatchewan now oversees? Seven hundred and eighty-nine. It almost makes me feel relieved that Ontario has only 444.

- 9** In Ontario, back in the 1960s and '70s, it took 10 years to establish the Ombudsman's Office. But it took almost 40 years for the office's mandate to be extended to municipal government, under Bill 8. I point this out because I know that from your perspective, the changes under Bill 8 came suddenly. But for our office and the tens of thousands of people who came to us for help with municipal issues over all those years, they were a long time in the making.
- 10** The good news about that long incubation period is that the Ombudsman's Office had 40 years to demonstrate its value to citizens in improving provincial government services. We have had 40 years to help people navigate the massive bureaucracy at Queen's Park and do what we do best, which Mr. Maloney described as "humanizing government." We have had 40 years to develop excellent working relationships with senior public service managers, deputy ministers and ministers. All of this has positioned us well to extend our work to municipalities, and to work with them the same way.
- 11** For example, I have regular quarterly meetings with Steve Orsini, the Secretary of Cabinet and the head of the Ontario Public Service. My senior team and I meet regularly with the managers of the most-complained-about government programs and agencies, so we can alert them to problems that we're hearing about and give them a chance to fix them before they mushroom into something worse. In doing this, we often avert the need for a major investigation, simply by making sure complaints are being addressed by those who are directly responsible.
- 12** This is the bulk of what ombudsmen do, and have always done. We handle close to 25,000 complaints every year, and most of them you never hear about, because they are quickly and quietly resolved – usually by our staff making a few phone calls. The real value, though, is that in being proactive and prompting the government to nip problems in the bud, we don't just help the complainants who come to us; we help improve the situation for everyone else, including the bureaucrats responsible.
- 13** Of course, over 40 years, we have also developed expertise in conducting the kind of investigations I'm sure you *have* heard about, because they resulted in important improvements in governance for millions of Ontarians. Our office has become known for its large-scale, systemic investigations, and in fact, over the

- past decade, we have trained ombudsmen and other watchdogs and investigators all across Ontario, Canada and around the world.
- 14** Our systemic work has given us broad exposure to the challenges that residents in rural and remote parts of the province face in dealing with Queen’s Park. From its earliest days, our office was committed to ensuring that people all across Ontario could make their voices heard in Toronto, and that commitment continues today.
 - 15** In the 1970s, Mr. Maloney and his staff took a roadshow approach, touring the province and sharing information about their work. Today, we are doing much the same, by attending this conference, as well as AMO, FONOM, OSUM and numerous others where we can interact with stakeholders. We also employ every technological tool at our disposal, ensuring that Ontarians everywhere can reach us through Skype, email and on their mobile devices, as well as the traditional phone, fax and letter.
 - 16** The fact is, our best-known cases are those that have benefited people in ROMA municipalities. One of the first major investigations I was involved with began in 2005, when we looked into a lack of fairness and transparency at the Municipal Property Assessment Corporation. I know everyone here knows MPAC– in fact, they are sponsoring the session right after this one.
 - 17** We looked into more than 3,000 complaints about MPAC, whose assessments at that time were upsetting for a lot of property owners who had unsuccessfully challenged them. Our investigation found that MPAC was not being open enough with assessment information, and not always accurate. More importantly, the entire system put an unfair onus on THE taxpayer to prove the inaccuracies. As a result of that investigation, the government froze all property assessments for the next two years, and the onus was placed on MPAC to show its assessments were accurate.
 - 18** MPAC also overhauled its own systems to make more information available to property owners. We followed up with MPAC on how it implemented our recommendations and other improvements over the past decade. Today, it has an online portal where people can research and compare their assessments with other properties. Complaints about MPAC to our office have dropped to very few. I’m happy to see that they will be talking about “increased transparency” at today’s presentation. That is the kind of constructive change and value that an Ombudsman investigation can bring – even 10 years after the fact.
 - 19** And of course, I can’t forget our most recent, and biggest-ever case, where we heard from rural residents by the thousands: Hydro One. The fiasco that resulted

- when Hydro One brought in a new billing system two years ago was a customer service nightmare – one that the utility downplayed and failed to address until it got out of control.
- 20** Although Hydro One is no longer subject to our oversight, or that of any other officer of the Legislature because it has been partially privatized, our investigation nonetheless provided value to thousands of customers, because we were able to work directly with Hydro One to make sure their erroneous bills were fixed.
 - 21** We may have lost oversight of Hydro One, but it now has an internal ombudsman customers can turn to. And we have gained oversight of municipal utility companies, so I am hopeful that Ontarians will still be able to benefit from the lessons of our Hydro One investigation for years to come.
 - 22** These cases can have enormous impact. They are the kind of cases contemplated by the part of Bill 8 that empowers the Ombudsman to conduct systemic investigations across municipalities. But it's important for you to know that these kinds of investigations are relatively rare. We have conducted about 35 of them in the past 10 years – a period in which we handled about 200,000 individual complaints.
 - 23** Those individual cases are often resolved behind the scenes, but they, too, can help large numbers of people, including residents in rural and remote parts of Ontario.
 - 24** Now, let me address how we can provide value in the municipal context. Many of you are familiar with the work our office has done with municipalities since 2008, enforcing the open meeting rules in the *Municipal Act*. We are the closed meeting investigator for about half of the municipalities in Ontario, and a significant number are ROMA members.
 - 25** Quite frankly, our role as closed meeting investigator has been a mixed blessing. It has given us valuable experience with municipalities and the opportunity to learn that you are all different in your own way. It has allowed us to help citizens with hundreds of complaints, and help councils ensure their meeting practices are open, transparent and consistent with the law.
 - 26** But it also led to a lot of confusion and concern, because it cast the Ombudsman's office in a law enforcement role. This is not traditionally what ombudsmen do, and certainly not what Mr. Maloney envisioned when he first called for the ability to oversee municipalities.

- 27** Traditionally, we resolve issues informally and emphasize flexible, fair, human solutions. But as closed meeting investigator, our *only* role is to determine whether the *Municipal Act* and municipal procedure by-laws were complied with. It is a narrow mandate that requires more formal procedures of investigation and, in my view, was not the best way for some municipalities to get to know us. Many were left with the mistaken impression that our role was to police municipal councils, rather than to make recommendations to improve transparency.
- 28** On the bright side, we built good relationships with many council members, clerks and CAOs over the past eight years, and we've been happy to see our recommendations for best practices embraced by municipalities all over Ontario.
- 29** The challenge for us over the past year has been to explain that our new role is very different from that of closed meeting investigator. There are two key differences: Firstly, we can now take complaints about *anything* to do with municipalities, not just closed meetings. Secondly, we are a last resort, and we encourage municipalities to have their own complaint and accountability mechanisms to resolve complaints at the local level wherever possible.
- 30** Bill 8 emphasizes that where a local ombudsman, integrity commissioner or similar office exists, our office cannot intervene. We can only step in where those mechanisms have failed to address a problem, or cannot go.
- 31** Some media have asked us, isn't this a way for municipalities to avoid your oversight? Some municipal officials have asked us, if we don't appoint accountability officers, won't your office do the work for free?
- 32** Our answer is no in both cases. It is always in the public interest for local issues to be resolved at the local level. Our role is not to investigate every pothole and snow removal complaint. It's to ensure the municipality has a process for dealing with complaints about these and other issues, and that those local mechanisms are working as they should.
- 33** This is consistent with how we have operated for 40 years. When we receive a complaint about a provincial government organization, our first response is not to send investigators out to the scene, although we have the power to do so. Our response is to find out what the organization has done to address the problem – and ideally get it fixed at the frontline level. When we see urgent complaints, we flag them to the appropriate officials. And when we see clusters or trends in complaints about recurring issues, we step in to nip them in the bud, or recommend systemic solutions to stop them from recurring.

- 34** We have devoted a lot of time in the past year to consulting with municipalities and hearing their concerns. Not surprisingly, the top concern, especially in smaller municipalities, was the potential drain on resources. Many wanted to know how Ombudsman investigations would affect their workload. How many complaints and calls could they expect, and how long would the investigations take? Related to this was the second most common concern – that our office would be flooded with complaints, substantiated or not, from people who had already taken up a lot of the municipality’s time, and that we would enable them to start the whole process over again.
- 35** I think I can ease your minds on both these points. I’ve already explained that we always work to resolve matters informally and at the local level wherever possible. If there is an existing complaint mechanism that the person has not tried, then that is where we will refer them. This is why we encourage you to ensure you have clear complaint procedures and your own accountability officers.
- 36** As for the amount of time and resources our oversight will entail, our experience with closed meetings showed there was no floodgates effect, and our experience so far with municipalities has been similar.
- 37** As of today, we have received 660 complaints since January 1, which works out to less than 100 per week, and less than two complaints per municipality across Ontario.
- 38** And out of those 660 complaints, do you know how many we have escalated to formal investigations? I am happy to say the answer is none so far. Some of the newer ones are still being assessed, obviously, but many have already been resolved through referral and some brief contact between our staff and the municipalities. This is the value of our office in action.
- 39** The topics of complaints so far are pretty much what you would expect – along with services like snow removal and road maintenance, we’re hearing about customer service issues and delays, and problems with programs such as Ontario Works.
- 40** However, the most common complaint category so far is conduct of council members, including conflict of interest. This is partly because in many communities, citizens have never been able to complain about these kinds of issues before. Some might well turn out to be complex matters, but many have the potential to be quickly resolved as well.

- 41** As for those repeat complainants and persistent issues, I assure you that in 40 years of taking complaints, we have ample experience in this area. And yes, we do get complaints from people who have already complained at the local level many times, who are now coming to us in the hope that we will hear them out.
- 42** To you, and to them, I say this is another example of the value provided by the Ombudsman. We can bring fresh eyes to an issue, as a completely independent and impartial party. We are not advocates for complainants or a rubber stamp for municipalities. If we find a problem, we will recommend a solution; if not, we can give all sides the satisfaction of being heard. And when necessary, we will dismiss complaints that are frivolous or vexatious, or are simply not substantiated.
- 43** One last thing you should know about the value of the Ombudsman: We go where the investigation takes us. We have no intention of replacing local mechanisms, but if we find a serious, systemic issue that is beyond your scope, that goes across municipalities, we will go there, because no one else can. And should the issue lead to provincial authorities, needless to say, we can go there, too.
- 44** Our perspective and our relationships with officials in both the municipal and provincial spheres may prove to be our most valuable asset of all, because there is the potential to improve governance at both levels.
- 45** Once again, thank you for this opportunity. I look forward to continuing to work with you as we move forward with our new mandate. Now, I'm happy to answer any questions you might have.