

From: "Johnston, Sadhu" <Sadhu.Johnston@vancouver.ca>

To: "Direct to Mayor and Council - DL"

CC: "City Manager's Correspondence Group - DL"

Date: 10/5/2020 4:05:16 PM

Subject: Ombudsperson Quarterly Reports - 2020 Q1 and Q2

Attachments: 20201005094702275.pdf

Dear Mayor and Council,

Attached are the Quarterly Reports for 2020 Q1 and Q2 from the Office of the Ombudsperson. All reports are electronically filed and saved with our City Clerks department. Please contact Rosemary if you wish to review past reports.

Best,
Sadhu

Sadhu Aufochs Johnston | City Manager
Office of the City Manager | City of Vancouver
604.873.7627 | sadhu.johnston@vancouver.ca

Pronouns: he, him, his



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the Musqueam, Squamish, and Tsleil-Waututh peoples.



The Office of the
Ombudsperson

2nd floor – 947 Fort Street
PO Box 9039 STN PROV GOVT
Victoria BC V8W 9A5

www.bcombudsperson.ca

General Inquiries: 250-387-5855
Toll-Free: 1-800-567-3247
Fax: 250-387-0198

Mr. Sadhu Johnston
City Manager
City of Vancouver
453 W 12th Ave.
VANCOUVER BC V5Y 1V4

August 28, 2020

RECEIVED

SEP 15 2020

City of Vancouver
City Manager's Office

Dear Mr. Johnston,

RE: Quarterly Reports: January 1 – March 31, 2020 and April 1 – June 30, 2020

This package of documents details the complaint files the Office of the Ombudsperson closed for the City of Vancouver over two quarters: January 1 – March 31, 2020 and April 1 – June 30, 2020. In recognition of the unprecedented pressures created by the COVID-19 pandemic the reports for the January 1 – March 31, 2020 were not sent according to our usual timeline, but are included here.

These packages do not include information about complaint files that are currently open with our office. As required by the *Ombudsperson Act*, these reports provide information about the complaint files we closed regarding your organization within the last two quarters, including both files we investigated and files we closed without investigation. No action is required on your part, however we hope that you will find this information useful and share it within your organization.

Enclosed you will find detailed reports containing the following:

- The number of files our office closed in the last two quarters regarding your organization and the category under which these files were closed. The categories we use to close files are based on the sections of the *Ombudsperson Act*, which gives the Ombudsperson the authority to investigate complaints from the public regarding authorities under his or her jurisdiction. A more detailed description of our closing categories is available on our website at: <https://bcombudsperson.ca/assets/media/QR-Glossary.pdf>.
- If applicable, copies of all closing summaries from investigated files that were closed during the last two quarters. Our office produces closing summaries for *investigated* files only, and not for enquiries or those we choose not to investigate. These summaries provide an overview of the complaint received, our investigation and the outcome.
- If applicable, a summary of the topics identified in all complaints that were closed in the last two quarters for your organization. Our office tracks the topics of complaints we investigate and those we close without investigation (we do not track this information for enquiries). We track general complaint topics for all complaints we receive, and when applicable, we include authority-specific and/or sector-specific topics for your organization

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and/or sector. Because complaints are confidential, we do not share complaint topic information if we received too few complaints to preserve the complainants' anonymity.

If you have questions about our quarterly reports, or if you would like to sign up for our mailing list to be notified of educational opportunities provided by our Prevention Initiatives Team, please contact us at 250-508-2950 or consult@bcombudsperson.ca.

Yours sincerely,

Jay Chalke
Ombudsperson
Province of British Columbia

Enclosures



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Quarterly report for City of Vancouver for January 1 – March 31, 2020

Type of complaint closure	# closed
Enquiries – Many people who contact us are not calling to make a complaint, but are seeking information or advice. These contacts are classified as <i>Enquiries</i> to distinguish them from <i>Complaints</i> , which are requests that our office conduct an investigation.	2
Complaints with No Investigation – Our office does not investigate every complaint it receives. First, we determine whether we have authority to investigate the complaint under the <i>Ombudsperson Act</i> . We also have discretion to decline to investigate for other reasons specified in the <i>Ombudsperson Act</i> .	23
Early Resolution Investigations – Early Resolution investigations provide an expedited process for dealing with complaints when it appears that an opportunity exists for the authority to take immediate action to resolve the issue. Typical issues that are addressed through Early Resolution include timeliness, communication, and opportunities for internal review.	2
Complaint Investigations – When we investigate a complaint we may conclude with a determination that a complaint is not substantiated, or with a negotiated settlement of the complaint, or with public findings and recommendations. We may also exercise discretion to cease investigation for a number of other reasons specified in the <i>Ombudsperson Act</i> .	Total: 3
<i>Reason for closing an Investigation:</i>	
Pre-empted by existing statutory right of appeal, objection or review.	0
Investigation ceased with no formal findings under the <i>Ombudsperson Act</i> .	
More than one year between event and complaint	0
Insufficient personal interest	0
Available remedy	0
Frivolous/vexatious/trivial matter	0
Can consider without further investigation	0
No benefit to complainant or person aggrieved	0
Complaint abandoned	0
Complaint withdrawn	0
Complaint settled in consultation with the authority - When an investigation leads us to conclude that action is required to resolve the complaint, we try to achieve that resolution by obtaining the voluntary agreement of the authority to settle the complaint. This allows matters to be resolved fairly for the complainant and authority without requiring a formal finding of maladministration.	3
Complaint substantiated with formal findings under the <i>Ombudsperson Act</i> .	0
Complaint not substantiated under the <i>Ombudsperson Act</i> .	0
Ombudsperson Initiated Investigations – The Ombudsperson has the authority to initiate investigations independently from our process for responding to complaints from the public. These investigations may be ceased at the discretion of the Ombudsperson or concluded with formal findings and recommendations.	0

For more detailed information about the complaint closing categories used by our office, please see our glossary of terms at: <https://www.bcombudsperson.ca/resources/information-public-bodies/fairness-quick-tips>. To obtain a more detailed breakdown of the complaints closed for your authority for the quarter, please contact us at consult@bcombudsperson.ca.

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Notice: Use of this document as evidence against an individual or institution in a court or tribunal proceeding is prohibited by s. 20(2) of the Ombudsperson Act.

Closing Summary Index

Closing summaries are provided for all investigated files closed in each quarter. Identifying information is removed from the closing summary itself to allow for broader distribution within your organization for quality improvement purposes without disclosing personal information. The table below provides an index of these investigated files and lists the complainant's name, file number and authority contact involved. Files closed under our Early Resolution Program are also identified. This identifying information is provided separately to assist you in following up on individual files with involved staff as needed.

File Number	Complainant	Authority	Authority Contact	ER file
20-179099 /001	Black, Alex	City of Vancouver	Cobi Falconer Director (Acting)	✓
20-179311 /001	Verdolaga, George	City of Vancouver	Cobi Falconer Director (Acting)	✓
19-174274 /001	Hope, Carley	City of Vancouver	Cobi Falconer Director (Acting)	
19-175378 /001	Dewberry, Andrew	City of Vancouver	Ms. Barbara Van Fraassen Director, Access to Information	
19-175997 /001	Li, Regan	City of Vancouver	Ms. Barbara Van Fraassen Director, Access to Information	

Closing Summary

Authority: City of Vancouver

File Number: 20-179099 /001

Closing Date: 26-Mar-2020

Closing Status: *Closed; Investigation under ERP; Ceased (discretion) (s.13); Complaint settled under s.14 (s.13(i)); No findings*

General Complaint Topics: Communication

Authority-specific Complaint Topics: Bylaw Enforcement

The complainant told us she filed an animal bylaw complaint to the City of Vancouver regarding aggressive dogs that are charging a fence line that runs parallel to a designated horse trail. The complainant told us she received a voice message from a staff person at the City, stating the owner of the dogs had not infringe on any bylaw and there was nothing they could do. The complainant returned the call to the staff person as she wanted to discuss the matter further, but did not receive a return call. We said we could make inquiries and arrange to have a Supervisor contact the complainant in order to discuss her concerns.

The A/Director of Access to Information, City Clerks Office provided us with confirmation that the Animal Services Supervisor contacted the complainant on March 17, 2020 and discussed her concerns.

Closing Summary

Authority: City of Vancouver

File Number: 20-179311 /001

Closing Date: 20-Feb-2020

Closing Status: *Closed; Investigation under ERP; Ceased (discretion) (s.13); Complaint settled under s.14 (s.13(i)); No findings*

General Complaint Topics: Process/Procedure

Authority-specific Complaint Topics: Business Licensing

The complainant told us the City of Vancouver acted unfairly by charging him a late fee for his business licence. As the complainant told us he had not received a response to his email enquiry, and that a staff person told him there was no other staff person who could address his concerns, we said we would try to facilitate contact between a manager or supervisor and the complainant.

The complainant confirmed that the Licence Office Supervisor contacted him on February 18, 2020 and discussed his concerns about the late fee and the applicable by-law.

Closing Summary

Authority: City of Vancouver
File Number: 19-174274 /001
Closing Date: 16-Mar-2020
Closing Status: *Closed; Investigation; Ceased (discretion) (s.13); Complaint settled under s.14 (s.13(i)); No findings*
General Complaint Topics: Process/Procedure
Authority-specific Complaint Topics: Other

A person raised concerns with our office about the City of Vancouver's hiring practices for Vancouver Fire & Rescue Service. They said that through an informal network of colleagues, they became aware of an applicant who had been hired as a firefighter in 2017 but who had not met one of the requirements for application, namely providing evidence of a valid BC Emergency Medical Assistants Licensing Board Licence. The complainant made several freedom of information requests of the City but was unhappy with the responses, saying that they demonstrated unfairness in the hiring process undertaken by the City and VFRS. Specifically, they said that the process excluded many applicants but gave preferential treatment to a select few, including family members of current and former VFRS employees. They also alleged that the City made inconsistent disclosures to them in connection with their freedom of information requests, and that it failed to publish some of its responses to those requests on its website in accordance with its policy. They asked us to investigate these matters.

We investigated whether the City acted reasonably or fairly, and consistently with its obligations regarding its hiring practices governing VFRS applicants around 2016 and 2017. We found that the City may have permitted some applicants in 2016 to screen through to the written test without having provided certain required documentation in their application package. However, we also found that in 2017, the City said that it did not allow any applicants who had not provided this required information on application to screen through to the written test, in line with information published in its Guide to Applicants and the application form. We noted that the City's website now says that applicants without the Licence qualification will be accepted, but that if the applicant is successful in the recruitment process they will have to obtain the qualification by the time of the official job offer or the time of hire. We concluded that the fact that the City said that it adjusted its conduct in 2017 to align with its published documentation, and changed the information on its public facing website to reflect a more flexible approach to applicants' provision of required documentation, demonstrated that it had already done what we would usually request of it.

Although it appeared that there may have been some discrepancies in the figures provided to the complainant in the City's responses to their freedom of information requests, we noted that the complainant did not seem to have approached the City for an explanation of any apparent discrepancy. We also did not see evidence that the apparent discrepancies supported the conclusion that preferential treatment was being given to relatives of VFRS employees in the hiring process. Therefore, we did not conclude that there was administrative unfairness arising from the City's hiring practices for VFRS that required further investigation by our office.

However, we did find that two of the City's three responses to the complainant's request for information had not been published on its website in line with its commitment to do so. We asked the City to publish these responses, and it did so immediately. Given that the City took the steps necessary to resolve the fairness concerns identified, we ended our investigation and closed our file.

Closing Summary

Authority:	City of Vancouver
File Number:	19-175378 /001
Closing Date:	19-Feb-2020
Closing Status:	<i>Closed; Investigation; Ceased (discretion) (s.13); Complaint settled under s.14 (s.13(i)); No findings</i>
General Complaint Topics:	Treatment by staff Communication
Authority-specific Complaint Topics:	Services (incl. Garbage, Sewer, Water)

A man complained about the City of Vancouver. The man initially complained to the City about readings on two water meters which had been newly installed at two properties he owned. The man alleged that the usage reported by both water meters at the time he received the utility bills was unreasonably high. When he contacted the City's helpline, he was put through to a City representative at the Waterworks Operations Department, who told the man they could not help with respect to his bills, and forwarded his complaint to the City's Utility Billing Office.

The man did not hear anything further from the City until he received two additional utility bills nearly a year later. These new bills noted that the man had complained of high water consumption and that his claim was unsubstantiated. The man subsequently tried to contact the Utility Billing Office, but was directed back to the Waterworks Operations Department. He learned that the Utility Billing Office had closed his file without modifying his bills. Despite multiple attempts, the man was unable to reach the Utility Billing Office or receive any further update from the City explaining how his claim had been assessed.

We investigated whether the City acted fairly and reasonably in addressing the man's complaint. We initially suggested that the City contact that man since his primary concern was that he had been unable to reach a representative of the City to discuss the water meter readings directly in the context of his utility bills.

Following receipt of our notice of investigation, the City emailed the man a letter explaining, in detail, the scope and outcome of their investigation and the reasons for which they did not adjust his utility bills. The man and the City have since continued communicating about the disputed water meter readings. We considered the City's investigation, according to their letter, reasonable in the circumstances, and that the primary point of unfairness (i.e. the lack of adequate communication) had been resolved.

Closing Summary

Authority: City of Vancouver

File Number: 19-175997 /001

Closing Date: 14-Jan-2020

Closing Status: *Closed; Investigation; Ceased (discretion) (s.13); Complaint settled under s.14 (s.13(i)); No findings*

General Complaint Topics: Communication

Authority-specific Complaint Topics: Bylaw Enforcement

A person complained that the City of Vancouver had not responded to his request for information about the city's investigation into his noise complaint about a neighbourhood pub. We investigated whether the city responded adequately to his request for information into their investigation.

In response to our investigation, the city contacted the person and provided information about their investigation about his noise complaint. In this case, we were satisfied the complaint was resolved and we closed the file.

Sector-Specific Complaint Topics - All Local Government

Business Licensing	5	3%
Bylaw Enforcement	59	33%
Council Member Conduct (incl. Conflict of Interest)	3	2%
Official Community Plan/Zoning/Development	35	20%
Fees/Charges (incl. Taxes)	11	6%
Open Meetings	1	1%
Procurement	4	2%
Services (incl. Garbage, Sewer, Water)	20	11%
Response to Damages Claim	3	2%
Other	36	20%

General Complaint Topics - All Local Government

Decision/Outcome - Disagreement with	88	37%
Accessibility	1	0%
Delay	8	3%
Administrative error	6	3%
Treatment by staff	12	5%
Communication	34	14%
Process/Procedure	63	27%
Complaint/Review/Appeals Process	15	6%
Employment/Labour Relations	4	2%
Other	6	3%

The tables below summarize the complaint topics we are tracking for your sector and/or authority and the number of times this topic was identified in the files (investigated and non-investigated complaints) that were closed in the most recent quarter.

If you would like more information on the types of complaints we receive, please contact our Prevention Initiatives Team: email us at consult@bcombudsperson.ca or call us at 250-508-2950.

Authority-Specific Complaint Topics - City of Vancouver

Business Licensing	1	3%
Bylaw Enforcement	13	42%
Official Community Plan/Zoning/Development	2	6%
Fees/Charges (incl. Taxes)	6	19%
Procurement	1	3%
Services (incl. Garbage, Sewer, Water)	2	6%
Other	6	19%

General Complaint Topics - City of Vancouver

Decision/Outcome - Disagreement with	15	35%
Administrative error	1	2%
Treatment by staff	1	2%
Communication	8	19%
Process/Procedure	12	28%
Complaint/Review/Appeals Process	3	7%
Employment/Labour Relations	2	5%
Other	1	2%



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Quarterly report for City of Vancouver for April 1 – June 30, 2020

Type of complaint closure	# closed
Enquiries – Many people who contact us are not calling to make a complaint, but are seeking information or advice. These contacts are classified as <i>Enquiries</i> to distinguish them from <i>Complaints</i> , which are requests that our office conduct an investigation.	5
Complaints with No Investigation – Our office does not investigate every complaint it receives. First, we determine whether we have authority to investigate the complaint under the <i>Ombudsperson Act</i> . We also have discretion to decline to investigate for other reasons specified in the <i>Ombudsperson Act</i> .	18
Early Resolution Investigations – Early Resolution investigations provide an expedited process for dealing with complaints when it appears that an opportunity exists for the authority to take immediate action to resolve the issue. Typical issues that are addressed through Early Resolution include timeliness, communication, and opportunities for internal review.	0
Complaint Investigations – When we investigate a complaint we may conclude with a determination that a complaint is not substantiated, or with a negotiated settlement of the complaint, or with public findings and recommendations. We may also exercise discretion to cease investigation for a number of other reasons specified in the <i>Ombudsperson Act</i> .	Total: 1
<i>Reason for closing an Investigation:</i>	
Pre-empted by existing statutory right of appeal, objection or review.	0
Investigation ceased with no formal findings under the <i>Ombudsperson Act</i> .	
More than one year between event and complaint	0
Insufficient personal interest	0
Available remedy	0
Frivolous/vexatious/trivial matter	0
Can consider without further investigation	1
No benefit to complainant or person aggrieved	0
Complaint abandoned	0
Complaint withdrawn	0
Complaint settled in consultation with the authority - When an investigation leads us to conclude that action is required to resolve the complaint, we try to achieve that resolution by obtaining the voluntary agreement of the authority to settle the complaint. This allows matters to be resolved fairly for the complainant and authority without requiring a formal finding of maladministration.	0
Complaint substantiated with formal findings under the <i>Ombudsperson Act</i> .	0
Complaint not substantiated under the <i>Ombudsperson Act</i> .	0
Ombudsperson Initiated Investigations – The Ombudsperson has the authority to initiate investigations independently from our process for responding to complaints from the public. These investigations may be ceased at the discretion of the Ombudsperson or concluded with formal findings and recommendations.	0

For more detailed information about the complaint closing categories used by our office, please see our glossary of terms at: <https://www.bcombudsperson.ca/resources/information-public-bodies/fairness-quick-tips>. To obtain a more detailed breakdown of the complaints closed for your authority for the quarter, please contact us at consult@bcombudsperson.ca.

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Closing Summary Index

Closing summaries are provided for all investigated files closed in each quarter. Identifying information is removed from the closing summary itself to allow for broader distribution within your organization for quality improvement purposes without disclosing personal information. The table below provides an index of these investigated files and lists the complainant's name, file number and authority contact involved. Files closed under our Early Resolution Program are also identified. This identifying information is provided separately to assist you in following up on individual files with involved staff as needed.

File Number	Complainant	Authority	Authority Contact	ER file
19-175239 /001	Oliver, Randy	City of Vancouver	Ms. Barbara Van Fraassen Director, Access to Information	

Closing Summary

Authority:	City of Vancouver
File Number:	19-175239 /001
Closing Date:	19-May-2020
Closing Status:	<i>Closed; Investigation; Ceased (discretion) (s.13); Can consider without further investigation (s.13(e)); No findings</i>
General Complaint Topics:	Disagreement with Decision or Outcome Communication Process or Procedure Review or Appeal Process
Authority-specific Complaint Topics:	Other

A person complained about a bus stop that had been relocated to the front of their house. By way of background, the person told us the City of Vancouver had sent a letter to local residents advising that there would be upgrades to the street that the person lived on and that this would include the relocation of a bus stop 100 metres north. The person explained that, upon receiving this letter, they were concerned that the bus stop was moving closer to their house. They said it was very important to them that the bus stop not be moved to the front of their house. The person told us they contacted the City to ask for more details about the proposed location.

The person said the City directed them to speak with a representative of TransLink, who reassured them that the proposed location was north of the person's house and not in front of it.

The person explained they were out of town during the construction, but upon return they discovered the bus stop had been moved in front of their house. The person said they complained and received a response from TransLink explaining that the location had been changed because of public concern about the distance of the bus stop from a nearby crosswalk. The person told us they contacted several City employees, but said the City had not responded to their complaint.

The person told us they were concerned about noise, litter, and safety arising from the location of the bus stop. They were also concerned with the process the City followed with respect to deciding where the bus stop location should be and the lack of response from the City to the complaint.

The focus of our investigation was whether the City followed a reasonable process in responding to the person's concerns about the bus stop location. As part of our investigation, we asked City staff about the person's complaint and reviewed relevant records.

The City explained that decisions about bus stop location are considered collectively by three parties: the City, TransLink, and Coast Mountain Bus Company (CMBC). With respect to this particular bus stop, the City said the three stakeholders had discussed and decided on the original proposed location. After that, the records the City provided revealed the following series of events:

- After receiving the letter about the planned bus stop relocation, the person telephoned the City's community liaison for the street upgrades project. The liaison referred the person to TransLink for a response.
- The person telephoned TransLink who told them that the proposed location was not in front of their house and provided them with a map confirming that information.
- A member of the public emailed the City's community liaison to register a complaint that the proposed location was too far from a planned pedestrian median. The liaison forwarded the complaint to the City's Transportation Design Branch.

- The City contacted TransLink twice to discuss the above complaint and said they agreed it would be better for the transit-using public if the bus stop was closer to the median. The City also said the location nearer to the median was preferred because it would have the least impact on spacing with other bus stops.
- TransLink advised the City that they agreed with the newly proposed location.
- Upon finding the bus stop relocated to the front of their house, the person contacted TransLink and the City to complain. The person raised concerns about privacy, noise, and litter and indicated their house was the only street-facing house in the vicinity. The City decided the appropriate response would be to monitor activities at the bus stop to determine the impact on the person.
- Several months later, the City gave the person the results of their monitoring. The City found that activities at the bus stop were normal and within reasonable expectations given the commuting patterns. They explained they also discussed the bus stop location with bus drivers, who did not report anything abnormal. The City told the person it had decided to keep the bus stop at the present location.
- Several months after that, the City responded to additional concerns that the person had raised about the impact of the bus stop location. The City explained they continued to review usage activity at the bus stop and had determined that numbers were relatively low and within expectations. The City explained that the decision to keep the bus stop at the present location was final.

We considered each of the City's responses to the person's concerns about the bus stop location to determine if the responses were reasonable. First, we considered the City's response when the person initially contacted the community liaison about the bus stop location. We concluded it was reasonable for the City to refer the person to TransLink because it was reasonable to assume that TransLink was able to provide information about the proposed location. As such, we did not assess any unfairness in the City's response to the person's initial telephone call.

The next interaction was when the person asked the City to relocate the bus stop from the front of their house. The person said they did not receive a satisfactory response. The City told us they spoke with the person twice to explain the intent of the location and to record the person's concerns. The City also told us, that in response to the person's complaint, the City decided to monitor the location of the bus stop to consider whether a change was warranted. We were satisfied that the decision to investigate the location was a reasonable response to the person's complaint.

At the conclusion of the monitoring, the City wrote to the person to explain the reasons, as discussed above, for their decision to keep the bus stop in the present location. Overall, we were satisfied that the City took adequate steps to consider and investigate the person's complaint and provided them with adequate reasons for the decision not to move the bus stop. As further investigation was not necessary, we closed our file.

Sector-Specific Complaint Topics - All Local Government

Business Licensing	7	5%
Bylaw Enforcement	43	31%
Council Member Conduct (incl. Conflict of Interest)	4	3%
Official Community Plan/Zoning/Development	29	21%
Fees/Charges (incl. Taxes)	18	13%
Open Meetings	2	1%
Services (incl. Garbage, Sewer, Water)	13	9%
Response to Damages Claim	4	3%
Other	18	13%

General Complaint Topics - All Local Government

COVID-19	7	4%
Disagreement with Decision or Outcome	60	34%
Accessibility	2	1%
Delay	14	8%
Administrative Error	4	2%
Treatment by Staff	11	6%
Communication	23	13%
Process or Procedure	36	20%
Review or Appeal Process	6	3%
Employment or Labour Relations	1	1%
Other	14	8%

The tables below summarize the complaint topics we are tracking for your sector and/or authority and the number of times this topic was identified in the files (investigated and non-investigated complaints) that were closed in the most recent quarter.

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Authority-Specific Complaint Topics - City of Vancouver

Bylaw Enforcement	10	40%
Official Community Plan/Zoning/Development	2	8%
Fees/Charges (incl. Taxes)	5	20%
Services (incl. Garbage, Sewer, Water)	3	12%
Other	5	20%

General Complaint Topics - City of Vancouver

COVID-19	2	6%
Disagreement with Decision or Outcome	10	31%
Administrative Error	1	3%
Treatment by Staff	1	3%
Communication	5	16%
Process or Procedure	5	16%
Review or Appeal Process	3	9%
Other	5	16%