

**From:** "Mochrie, Paul" <Paul.Mochrie@vancouver.ca>  
**To:** "Direct to Mayor and Council - DL"  
**Date:** 7/28/2023 2:52:07 PM  
**Subject:** BC Office of the Ombudsperson - quarterly reports (July 23/Mar 24)  
**Attachments:** 20230717075437278.pdf

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Hello Mayor and Council,

Please find attached for your information a report provided by the BC Ombudsperson regarding complaints received in relation to the City of Vancouver and the disposition of those matters. The Ombudsperson typically provides these reports on a quarterly basis.

Best,  
Paul

**Paul Mochrie** (he/him)  
City Manager  
City of Vancouver  
[paul.mochrie@vancouver.ca](mailto:paul.mochrie@vancouver.ca)



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the x<sup>w</sup>məθk<sup>w</sup>əyəm (Musqueam), Skwxwú7mesh (Squamish), and səliwətał (Tsleil-Waututh) Nations.



**OMBUDSPERSON**  
BRITISH COLUMBIA

June 27, 2023

Paul Mochrie  
City Manager  
City of Vancouver  
453 W 12th Ave  
VANCOUVER BC V5Y1V4

Dear Paul Mochrie,

RE: Office of the Ombudsperson Quarterly Reports: July 1, 2022 - March 31, 2023

This package of documents details the complaint files the Office of the Ombudsperson closed for City of Vancouver for the last three reporting quarters of the 2023 fiscal year between July 1, 2022 and March 31, 2023. No action is required on your part; however, we hope that you will find this information useful and share it within your organization.

Our office has recently migrated to a new software platform for our investigation file management, which has caused a delay in producing quarterly reports on their normal schedule. As we implemented the new software, we have updated the process by which these reports are generated. I apologize for the delay in sending these reports to you and expect that, going forward, the reports will be generated on a quarterly basis as they were in the past.

These reports provide information about the complaint files we closed regarding your organization within the last three quarters, including both files we investigated and files we closed without investigation. Files currently open with the office are not included in these reports.

Enclosed you will find detailed reports containing the following:

- A one-page report listing the number of files closed and the category under which they 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 our 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 closing summaries for complaint files that were investigated. These summaries provide an overview of the complaint received, our investigation and the outcome. Our office produces closing summaries for investigated files only, and not for enquiries or those complaints that were not investigated.



- If applicable: A summary of the topics identified in the complaint files closed during the quarter. We track general complaint topics for all complaints we receive, and when applicable, also include information about authority-specific and/or sector-specific topics in those complaints for your organization and/or sector. Because complaints to our office are confidential, we do not share complaint topic information if we received too few complaints to preserve the complainants' anonymity.

If your organization received too few complaints to produce a summary of complaint topics but you would like further information about the complaints our office received about your organization, our Public Authority Consultation and Training (PACT) Team can provide further details upon request.

If you have questions about our quarterly reports or notice any inaccuracies in the data provided, or if you would like to sign up for our mailing list to be notified of educational opportunities provided by our PACT Team, please contact us at 250-508-2950 or [consult@bcombudsperson.ca](mailto:consult@bcombudsperson.ca).

Yours sincerely,

Jay Chalke  
Ombudsperson  
Province of British Columbia

Enclosures





Type of complaint closure for Authority: City of Vancouver	# closed
<b>Enquiries</b> – 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.	9
<b>Complaints with No Investigation</b> – 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> .	39
<b>Early Resolution Investigations</b> – 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
<b>Complaint Investigations</b> – 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> .	3
<b>Reason for closing an Investigation</b>	
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	3
No benefit to complainant or person aggrieved	0
Complaint abandoned	0
Complaint withdrawn	0
<b>Complaint settled in consultation with the authority</b> – When an	0



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.

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Complaint substantiated with formal findings under the <i>Ombudsperson Act</i> .	0
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Complaint not substantiated under the <i>Ombudsperson Act</i> .	0
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<b>Ombudsperson Initiated Investigations</b> – 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
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The *Ombudsperson Act* requires that investigations be conducted in private. Ombudsperson investigation documents are not available through the *Freedom of Information and Protection of Privacy Act*, and may be subject to rules preventing their use in court and tribunal proceedings. **Please contact the Office of the Ombudsperson before disclosing this document, or any responses, to any third parties.**

### 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 file number, closing date 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	Authority	Authority Contact	ER file
20-0183044 / 001	City of Vancouver	Director, Access to Information and Privacy, City Clerks Department - Cobi Falconer	
21-0190068 / 001	City of Vancouver	Cobi Falconer	
22-000592	City of Vancouver	Cathy Palmer	Y
22-0197047 / 001	City of Vancouver		
22-0199485	City of Vancouver	Andrea Law	Y





## Closing Summary

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<b>Authority:</b>	City of Vancouver
<b>File Number:</b>	20-0183044 / 001
<b>Closing Date:</b>	17-Aug-2022
<b>Closing Status:</b>	<i>Can consider without further investigation (s.13(e))</i>
<b>General Complaint Topics:</b>	"Disagreement with Decision or Outcome", "Process or Procedure", "Treatment by Staff"
<b>Authority-specific Complaint Topics:</b>	"All Local Government" / Official Community Plan/Zoning/Development
<b>Closing Summary:</b>	<p>The Complainant says that she was given conflicting information from the City about whether or not a laneway house would be permissible in her backyard that had no access to a laneway. The Complainant says that she was also told by City staff that the fire department had the final say about whether the narrow egress issues concerning access from the laneway house to the street. Information obtained through FOI indicated that the Fire department did not appear to have the final say and indicated that the Building department were imposing the relevant spacing requirements that were insurmountable for the layout of the houses. Grounds for Unfairness: "Unreasonable procedure"</p>

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The Complainant says that she was given conflicting information from the City about whether or not a laneway house would be permissible in her backyard that had no access to a laneway. The Complainant says that she was also told by City staff that the fire department had the final say about whether the narrow egress issues concerning access from the laneway house to the street. Information obtained through FOI indicated that the Fire department did not appear to have the final say and indicated that the Building department were imposing the relevant spacing requirements that were insurmountable for the layout of the houses. We investigated the complaint.

As part of our investigation, we reviewed records relating to the complaint, including the 686-page FOI disclosure package that was provided by the City of Vancouver. We reviewed the relevant provisions of the Vancouver Charter, and the Vancouver Building Bylaw. We also spoke with the Building Policy Engineer who became involved in the application, as well as the Assistant Fire Chief and two members of the Development Review Branch who provided responses to the Complainant. We also contacted



the Planner involved in the Complainant's application.

The Building Policy Engineer indicated that he reviewed the prior-to letter which indicated that the minimum setback was listed as 1.2 meters at paragraph 4.3(5):

Indicate travel distance and firefighting access route measuring from back of curb to entrance of each dwelling unit on the site plan. Existing 3' wide path of travel for firefighters which is shared by the front & rear dwelling needs to be widen (4'min.) per VBBL 3.2.5.6. (2).

We asked why the 1.2-meter specification was indicated rather than the narrower 900 mm setback. He indicated that, as he had informed C. in the e-mail of March 2, 2020 the City of Vancouver treats all residences with a separate egress at the back of the house as requiring the 1.2 metre clearance. He referred us to the language and illustrations in the RT-5 guideline, which were also included in the e-mails. sent to the Complainant on March 2, 2020 and March 17, 2020.

I inquired with the Building Policy Engineer and the Assistant Fire Chief about their specific recollections of a meeting involving this file. In response to this question, the Building Policy Engineer indicated that coordinating with the Fire Department was a part of his regular work, but that he didn't have a specific record of this meeting.

The Assistant Fire Chief confirmed that the Fire Department's primary concern in the event of a fire is the safety of firefighters in the course of containing and stopping the fire and safety of any occupants. This includes access with all of their equipment for either a fire event in the main house or a fire event in the infill dwelling. In particular, the Fire Department expressed concern that firefighters arriving on scene would not know the condition of any occupants in the infill suite, or even necessarily be able to see that there was a secondary suite and that there might be a significant delay in firefighters reaching the back yard of the dwelling. Such delay would be increased in circumstances where there was conflagration in the main building as the primary focus of the firefighters would be limiting the spread to neighbouring dwellings before they would be physically able to safely reach the rear yard. I also spoke with AFC Cheung regarding his recollection about any particular meeting that took place. He had no specific recollection of when the meeting occurred.

I reviewed the April 29, 2020 e-mail detailing the input from the Fire Department. The Complainant described this document as a script and believed that it was fabricated. However, it appeared to be a synopsis of the different concerns respecting the physical limitations of the site, which were reiterated to us in our interview with the Assistant Fire Chief.

The Complainant said that it was the responsibility of staff to give more





assistance in rectifying problems that the City had created by guiding C. down the wrong path toward an infill rather than a secondary suite. C. also said that the failure of staff to provide reasonable assistance in this way constituted a breach of their obligations under the City's Code of Conduct. In particular, C. also said that because the City is in the middle of a housing crisis and part of City's Council's stated goals are to assist and rectify the ongoing housing crisis, that staff had a corollary obligation to proactively attempt solutions to rectify these issues.

We discussed with staff at the City of Vancouver the respective roles of staff in the Development Review Branch (DRB) and in the Building Review Branch (BRB). In particular, staff in the DRB informed us that they have an obligation to receive and review applications for planning approval. The DRB addresses issues related to form of the proposed dwelling, as well as zoning and general layout issues, access to utilities etc. However, DRB staff are not in a position to advise on possible solutions to problems that they identify as part of their review of development permit applications. Staff take the position that they are required to assess applications but that it is the responsibility of applicants, in conjunction with their designers or architects to propose solutions to the problems that are identified.

The role of city staff is to ensure that planning applications conform with the minimum requirements that are within the scope of their area of expertise. They are not in a position to offer solutions to design related problems. Nor are they formally tasked in their role with collaborating in the design of particular buildings or planning applications. For example, it would be unworkable for a member of staff to attempt to offer this type of assistance for every planning application that they had to review. This accords with information that the City provided in e-mails to the C.

C. also raised concerns to our office that several staff members of the City had contravened the City's Code of Conduct. In assessing this aspect of the complaint, we reviewed the City's Code of Conduct AE028-01. In assessing a complaint about breaches of the Code of Conduct, we look at how the City has responded to allegations of breaches of the Code of Conduct. Section 8.2 of the Code of Conduct requires that breaches of the Code of Conduct must be reported in writing to a General Manager or equivalent. We would generally expect that such a report includes sufficient particulars of the alleged breach so that the City could address the relevant allegations through the appropriate employment relationship outlined in sections 8.2, 8.3, 8.4 and 8.5.

Our analysis would then be based on an assessment of the City's adherence to its stated policy in assessing complaints about breaches of the Code of Conduct. Given that any employment consequences would typically not be disclosable to a complainant, we would assess the adequacy of the City's response to the Complainant's concerns but the



particulars of any employment consequences would not be disclosable.

In this circumstance it does not appear that C. made a specific written report containing an allegation of breach of the Code of Conduct or that an investigation was conducted by the City regarding any alleged breach of the Code of Conduct by any specific individual. In the absence of a specific report to the City, there did not appear to be sufficient grounds to commence an investigation into the City's response or lack thereof to alleged Code of Conduct violations that were not formally brought to the City in accordance with the Policy.

On that basis we concluded our file pursuant to section 13(e) of the Ombudsperson Act.

The Complainant also raised concerns about refund requests for her development application permit, as well as her sewer and water permit. The City declined to refund the development application permit as the application had been received and processed. However, the City did acknowledge its delay in processing the sewer permit and water permit. After further inquiries from our office, the City apologized to the Complainant for this delay and provided a refund for the sewer permit and water permit.





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**Authority:** City of Vancouver

**File Number:** 21-0190068 / 001

**Closing Date:** 25-Jan-2023

**Closing Status:** *Can consider without further investigation (s.13(e))*

**General Complaint Topics:** Communication, Disagreement with Decision or Outcome, Process or Procedure

**Authority-specific Complaint Topics:** All Local Government / Bylaw Enforcement

**Closing Summary:** Two people contacted our office about the multiple requests they had made to the City of Vancouver to take enforcement measures vis-à-vis the food trucks located in a particular part of the city. They described that the food trucks offended various City Bylaws, including the noise bylaw. The complainants were concerned that the City did not inspect food trucks at the permitting stage to determine whether they met various standards. The complainants explained that the City's actions did not address the underlying problems with the food trucks.

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We investigated whether the City conducted an adequate investigation and provided the complainants with adequate and appropriate reasons addressing their concerns.

In response to concerns about the food trucks both expressed by the complainants and by other residents as early as May 2020 and onward, the City contacted the food trucks to address complaints, reiterate the rules established for the area, and to require some food truck operators to provide information or to take steps to reduce noise level in some circumstances. Following the receipt of complaints from residents and the City's investigation into those complaints, the City also provided warnings and suspended permits in some instances where food trucks failed to adhere to the established rules.

As early as the summer of 2020 and in response to ongoing complaints about the food trucks, the City implemented various restrictions and schedules in respect of the food trucks.

In response to our questions about the initial permitting stage, the City explained that its Engineering Services review applications to make sure program applicants have submitted required information and understand the Noise Bylaw requirements. The City indicated that part of the permitting process involves an inspection by Health Inspectors and may also involve an inspection by Fire Services depending on the equipment for use. A food truck's full operating system is included in the yearly inspection Health Inspectors conduct as part of health permit renewals. While the permitting





process does not contemplate an inspection at the initial stage, the City indicated that where complaints are received, the City follows up and may inspect a food truck at that time.

On our review, it appeared the City provided the complainants and other residents with the opportunity to raise their concerns. It also appeared the City considered and investigated the issues raised, took steps to address some of those concerns, and reasonably communicated the steps it had or intended to take to the complainants in writing. It did not appear the City's investigations of the complainant's concerns were inadequate. We therefore ended the investigation and closed the file.



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**Authority:** City of Vancouver

**File Number:** 22-000592

**Closing Date:** 10-Jan-2023

**Closing Status:**

**General Complaint Topics:** Communication, Disagreement with Decision or Outcome, Process or Procedure, Treatment by Staff

**Authority-specific Complaint Topics:** All Local Government / Bylaw Enforcement

**Closing Summary:** \_\_\_\_\_



**Authority:** City of Vancouver

**File Number:** 22-0197047 / 001

**Closing Date:** 04-Jan-2023

**Closing Status:** *Can consider without further investigation (s.13(e))*

**General Complaint Topics:** Accessibility, Disagreement with Decision or Outcome, Process or Procedure, Review or Appeal Process

**Authority-specific Complaint Topics:** All Local Government / Services (incl. Garbage, Sewer, Water)

**Closing Summary:** A person came to our office with a concern that they had been banned from a number of City of Vancouver properties. The complainant indicated that they did not know why they were banned and expressed concerns about a proposed plan by the City to meet them in person to discuss the ban. The focus of my investigation was determining whether the City of Vancouver followed a reasonable process in these decisions.

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Having received a copy of the reasons for the decision made to ban the complainant I am satisfied that the initial ban was reasonable. Given the ban relates to interpersonal violence, I am satisfied that it is reasonable for the complainant to come in and discuss the issue in person before being allowed to return.

I noted during my investigation that the complainant was not advised of his right to appeal the decision, as is required in the City of Vancouver's policy guide. The City was not able to provide an explanation as to why this did not occur in this specific case. As this decision is now more than two years old, there is little our office can recommend to remedy this procedural unfairness, but I urge you to ensure that the policy is followed in the future.





**Authority:** City of Vancouver

**File Number:** 22-0199485

**Closing Date:** 18-Nov-2022

**Closing Status:**

**General Complaint Topics:** Communication

**Authority-specific Complaint Topics:** All Local Government / Bylaw Enforcement

**Closing Summary:** \_\_\_\_\_



*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 Public Authority Consultation and Training Team: email us at [consult@bcombudsperson.ca](mailto:consult@bcombudsperson.ca) or call us at 250-508-2950.

### Sector-Specific Complaint Topics – All Local Government

Business Licensing	11	2%
Bylaw Enforcement	159	29%
Council Member Conduct (incl. Conflict of Interest)	42	8%
Fees/Charges (incl. Taxes)	55	10%
Official Community Plan/Zoning/Development	100	18%
Open Meetings	18	3%
Other	95	17%
Procurement	5	1%
Response to Damages Claim	10	2%
Services (incl. Garbage, Sewer, Water)	48	9%

### General Complaint Topics – All Local Government

Accessibility	25	3%
Administrative Error	20	3%
Communication	105	14%
COVID-19	4	1%
Delay	46	6%
Disagreement with Decision or Outcome	221	29%
Discrimination	3	0%
Employment or Labour Relations	10	1%
Other	54	7%



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Process or Procedure	186	24%
Review or Appeal Process	16	2%
Treatment by Staff	77	10%





## Authority-Specific Complaint Topics – City of Vancouver

Bylaw Enforcement	24	39%
Council Member Conduct (incl. Conflict of Interest)	2	3%
Fees/Charges (incl. Taxes)	8	13%
Official Community Plan/Zoning/Development	7	11%
Open Meetings	1	2%
Other	14	23%
Response to Damages Claim	1	2%
Services (incl. Garbage, Sewer, Water)	4	7%



## General Complaint Topics – City of Vancouver

Accessibility	6	7%
Administrative Error	5	6%
Communication	10	11%
Delay	4	5%
Disagreement with Decision or Outcome	24	27%
Discrimination	1	1%
Employment or Labour Relations	1	1%
Other	6	7%
Process or Procedure	17	19%
Review or Appeal Process	5	6%
Treatment by Staff	9	10%