

From: **"Mochrie, Paul"**

To: **"Direct to Mayor and Council - DL"**

Date: 2024-04-10 2:48:20 PM

Subject: BC Office of the Ombudsperson - Quarterly Report (October 1 - December 31, 2023)

Attachments: Office of the Ombudsperson Quarterly Report_October 1 to December 31 2023.pdf

Dear Mayor and Council,

Attached, for your information, is a report provided by the BC Ombudsperson regarding complaints received in relation to the City of Vancouver over the period October 1 – December 31 2023 and the disposition of those matters. The Ombudsperson provides these reports on a quarterly basis.

Best,
Paul

Paul Mochrie (he/him)
City Manager
City of Vancouver



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the xʷm̓ k̓ y̓ m (Musqueam), Sṇwx̱w̱šw̱mesh (Squamish), and səlilwətał (Tsleil-Waututh) Nations.



OMBUDSPERSON
BRITISH COLUMBIA

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.**

February 29, 2024

Paul Mochrie
City Manager
City of Vancouver
453 W 12th Ave
VANCOUVER BC V5Y 1V4

Dear Paul Mochrie:

Re: Office of the Ombudsperson Quarterly Report: October 1 - December 31, 2023

This package of documents details the complaint files the Office of the Ombudsperson closed for City of Vancouver between October 1 and December 31, 2023. Though no action is required on your part, we hope that you will find this information useful and share it within your organization.

These reports provide information about the complaint files we closed regarding your organization within the last quarter, 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 written about the complaint files we 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 we chose not to investigate.
- 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, we include authority-specific and/or sector-specific topics for your organization and/or sector. Our office tracks the topics of complaints we investigate and



those we close without investigation, but not for enquiries. 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. Please contact the PACT Team at 250-508-2950 or consult@bcombudsperson.ca

If you wish to update your organization's contact information, or if you notice any inaccuracies in the data provided, please contact us at info@bcombudsperson.ca.

Yours sincerely,

Jay Chalke
Ombudsperson
Province of British Columbia

Enclosures



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.

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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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.

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Type of complaint closure for Authority: City of Vancouver	# 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.	1
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> .	9
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> .	1
Reason for closing an Investigation	
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	0



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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 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
23-001462 / 001	City of Vancouver	Katrina Leckovic	



Closing Summary

Authority:	City of Vancouver
File Number:	23-001462 / 001
Closing Date:	13-Oct-2023
Closing Status:	<i>Can consider without further investigation (s.13(e))</i>
General Complaint Topics:	Communication
Authority-specific Complaint Topics:	All Local Government / Fees/Charges (incl. Taxes)
Closing Summary:	A person contacted our office on behalf of their HVAC installation business. The person said that his company had not received advance notice of the bylaw changes, including a new requirement of mechanical permits for heat pump installations. The person said that their company lost several thousands of dollars because they had quoted their customers without accounting for the additional permit fees.

Our office investigated the matter. Our office is of the view that it would be impractical to require the City to notify each HVAC service provider operating in the City of the bylaw changes. Therefore, our investigation focused on whether the City had followed a reasonable process in communicating the changes to industry stakeholders as a group prior to the implementation of the changes.

Generally speaking, as part of the principles of administrative fairness, local government should provide notice of proposed regulatory changes to the stakeholders who will be affected by it. This notice is a key part of a fair administrative process and affords local government an opportunity to inform the stakeholders of its goals. Providing notice gives the stakeholders a chance to provide input or to question whether the proposed changes are appropriate. Notice also helps to ensure that subsequent enforcement action occurs only after those impacted has had a opportunity to be heard.

In assessing whether the notice provided is considered reasonable, our office examined whether the City had:

- Acted in a timely way;
- Communicated the proposed changes with the stakeholders;



Gave the stakeholders an opportunity to be heard; and
Responded to stakeholders' concerns.

In the present scenario, evidence suggests that the City had consulted extensively with trade associations regarding the proposed changes through numerous engagement sessions prior to implementation. In addition, invitations were circulated by the associations to their membership.

Evidence showed that numerous stakeholders within the HVAC industry (including individual vendors and trade associations) participated in the consultation process. During the engagement sessions, City staff answered questions and provided clarity on aspects of the proposed changes. Staff reported that the proposed changes were largely well-received.

Although the person's company was not specifically notified of the changes, our office was of the view that the City had followed a reasonable process in communicating to industry stakeholders through industry and trade associations. We were of the view that further investigation would not be necessary in order to consider the matter. We therefore discontinued our investigation and closed our file.



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 or call us at 250-508-2950.

Sector-Specific Complaint Topics – All Local Government

Business Licensing	3	2%
Bylaw Enforcement	52	33%
Council Member Conduct (incl. Conflict of Interest)	18	11%
Fees/Charges (incl. Taxes)	18	11%
Official Community Plan/Zoning/Development	24	15%
Open Meetings	7	4%
Other	16	10%
Procurement	1	1%
Response to Damages Claim	2	1%
Services (incl. Garbage, Sewer, Water)	17	11%

General Complaint Topics – All Local Government

Accessibility	11	5%
Administrative Error	5	2%
Communication	34	15%
Delay	7	3%
Disagreement with Decision or Outcome	73	33%
Discrimination	5	2%
Employment or Labour Relations	1	0%
Other	5	2%
Process or Procedure	57	26%



Review or Appeal Process	4	2%
Treatment by Staff	21	9%



Authority-Specific Complaint Topics – City of Vancouver

Bylaw Enforcement	3	30%
Fees/Charges (incl. Taxes)	5	50%
Response to Damages Claim	1	10%
Services (incl. Garbage, Sewer, Water)	1	10%



General Complaint Topics – City of Vancouver

Accessibility	4	29%
Communication	2	14%
Disagreement with Decision or Outcome	7	50%
Process or Procedure	1	7%