













Similarly, in February, 2018, the Town of Collinwood passed a resolution to commence a judicial inquiry with respect to the sale of the Town's electric utility. It took until April, 2018, for a judge of the Superior court to be appointed to commission the inquiry. The inquiry was estimated to take 9 months. Based on this estimation, the cost of the inquiry was set between \$1.4 to \$1.6 million. Unfortunately, the inquiry is still pending and will likely continue until the fall of 2019. It is unclear what the current cost of the inquiry is, however, it is unlikely to remain within the estimated budget

In the sections below, we provide specific information about the judicial inquiry process, as requested in the Notice of Motion.

### **1. Who sets the scope of the judicial inquiry?**

Under section 274 of the Municipal Act, a municipality may pass a resolution to commence a judicial inquiry by a judge of the Superior Court. The scope of the judicial inquiry is quite broad, giving the municipality latitude to commence an inquiry on virtually any matter related to the municipality. Specifically, the municipality can request a judge to:

- a. investigate misconduct or breach of trust of another council member, an employee or contractor of the municipality in relation to their duties and obligations to the municipality;
- b. inquire into any matter connected with the good governance of the municipality; or
- c. inquiry into the conduct of any part of the public business of the municipality, including business conducted by a commission appointed by council or elected by electors.

Once a judge is appointed as commissioner of the inquiry, the municipality is stripped of its ability to control the inquiry process. For example, although the municipality sets the initial scope of the inquiry, the commissioner may, without consulting the municipality, expand the scope of the investigation where he or she deems it appropriate to do so.

## **2. How does a judicial inquiry proceed?**

Once a resolution to commence a judicial inquiry is passed by city council, the municipality must write to the Regional Senior Justice and Chief Justice of the Superior Court to request that a judge be appointed to the inquiry. It may take several months to identify a judge that is available to commission the inquiry in light of judicial shortages and the backlog of cases.

The procedure of a judicial inquiry is not prescribed by statute or regulation. The commissioner is entitled to set his or her own policies and procedures. There are, however, standard procedural steps that commissioners are likely to undertake. These are detailed below and include references to Justice Bellmay's report in which her Honour provided guidance on the practical aspects of conducting a judicial inquiry following the completion of the Computer Leasing Inquiry.

### ***a. Practical and Logistical Considerations***

Once a judge is appointed as the commissioner of the inquiry, there are a number of practical and logistical requirements that must be tended to before the investigation can commence. Often, the commissioner will meet with the municipality to discuss the logistics of the inquiry, including budget, office, venue, equipment and staff.

After this initial meeting the commissioner will retain legal counsel. The role of commission counsel is to represent the judge and assist him or her in the conduct of the inquiry. All costs associated commission counsel are borne by the municipality.

After commission counsel is appointed, the commissioner will employ a number of other staff members necessary to efficiently run the inquiry. This includes a chief administrative officer to oversee the logistics, including securing an office and a hearing room, a communications officer to liaise with the media, junior lawyers, researchers, investigators, law clerks and administrative and technology support, who, among other things, will maintain the inquiry website. As the judicial inquiry is a public process, the inquiry website is an important point of accessibility.

### ***b. Rules of Procedure***

After the initial logistical concerns are addressed, the commissioner will establish the rules of procedure for the inquiry. This involves preparing a draft set of rules and circulating to members with standing for their comments. Depending on the number of individuals with feedback, this process could take several weeks.

### ***c. Document Management***

Depending on the number of documents involved in the inquiry, the commissioner may conduct a tender to retain the services of a document management company to maintain an electronic database of documents.

*d. Determining who has Standing*

In a public inquiry, anyone that has an interest in the subject matter of the inquiry is invited to apply to receive standing to participate in the inquiry to some extent. For example, some members may be given the right to access and review documents, others may be given the right to examine witnesses and make submissions in the hearing.

Advertisements are made in relevant media outlets to encourage individuals who have an interest in the hearing to apply for standing. Preliminary hearings are conducted to determine whether or not applicants may receive standing. The decision to grant standing falls within the exclusive purview of the commissioner.

Depending on the number of individuals that apply for standing, this phase could take several months to complete. In this case, we understand that there are a number of members of the public, including families that have lost loved ones on the RHVP and individuals who have threatened or commenced legal action against the City with respect to the RHVP that may wish to apply for standing if Council elects to commence a judicial inquiry.

*e. The Investigation*

The investigation phase is the least public part of the inquiry. It involves the collection of documents, identifying and interviewing relevant witnesses, retention of experts or external investigators. Depending on the scope of the investigation, the number of documents and witnesses, the investigation phase could take up to a year.

*f. The Hearing*

The precise nature of a hearing may vary depending on the structure implemented by the commissioner. However, hearings generally involve: opening statements, examination and cross examination of witnesses and closing submissions by commission counsel and those parties who have been granted standing.

**3. What are the powers of the commissioner?**

The commissioner's procedural powers in a judicial inquiry are enumerated in s. 33 of the Public Inquiries Act. This includes the ability to summons witnesses and compel production of documents from third parties. It also includes the power to apply to the Court to apprehend a witness who failed to appear upon receiving a summons.

**4. What findings can the commissioner make?**

In their final report, the commissioner can:

- make findings of fact. For example, he or she can make findings as to when an individual became aware of the Report;
- make findings of misconduct. For example, he or she can find that an individual ought to have circulated the Report upon becoming aware of its existence; and

- make recommendations on policy changes and protocols.

However, unlike a civil or criminal trial, a judicial inquiry cannot establish criminal culpability or civil liability. Indeed, there are no legal consequences to a public inquiry.<sup>3</sup>

Rather, in an inquiry the commissioner makes findings of fact and renders his or her opinion at the conclusion of the investigation.<sup>4</sup> These opinions or facts are not enforceable and do not bind courts considering the same subject matter.<sup>5</sup> As stated by the Federal Court:

A public inquiry is not equivalent to a civil or criminal trial. . . . In a trial, the judge sits as an adjudicator, and it is the responsibility of the parties alone to present the evidence. In an inquiry, the commissioners are endowed with wide-ranging investigative powers to fulfil their investigative mandate. . . . The rules of evidence and procedure are therefore considerably less strict for an inquiry than for a court. Judges determine rights as between parties; **the Commission can only “inquire” and “report” . . . Judges may impose monetary or penal sanctions; the only potential consequence of an adverse finding . . . is that reputations could be tarnished.**<sup>6</sup>

#### 5. What are the projected time frame and costs?

In our view, a judicial inquiry into why the Report was not disclosed to Council and/or to the public would take a minimum of a year and a half.

A broader investigation to review the manner in which the City addressed safety concerns relating to the RHVP, including the lack of disclosure about the Report may take up to two and a half years.

A judicial inquiry would cost a minimum of \$2 million up to potentially \$11 million. The costs are hard to predict and will depend on a myriad of factors, including the scope and nature of the investigation, the number of witnesses and documents, the number of individuals who are granted standing and whether any judicial applications are commenced.

### **C. Ombudsman Investigation**

A municipality may appoint an ombudsman to conduct an independent investigation on a broad range of issues. Once an ombudsman is appointed, the municipality can direct the ombudsman to delegate its authority to an independent, external investigator to conduct the investigation.

<sup>3</sup> Justice Bellamy Report at pg. 22

<sup>4</sup> Justice Bellamy Report at pg. 23

<sup>5</sup> *Ibid*

<sup>6</sup> *Beno v. Canada (Commissioner and Chairperson, Commission of Inquiry into the Deployment of Canadian Forces to Somalia)*, [1997] 2 F.C. 527, at para. 23.

The ombudsman, or the external investigator to whom the ombudsman has delegated his or her authority, can investigate any decision, recommendation, act done or omitted in the course of the administration of the municipality which affects any person in his, her or its personal capacity.

Past examples of investigations by the provincial ombudsman include an investigation into the City of Brampton's procurement practices and an investigation into the Ministry of Community Safety and Correctional Services' response to allegations of excessive abuse.

### **1. Who sets the scope of the ombudsman investigation?**

The scope of the ombudsman's investigation will be set by the municipality.

The Municipality Act expressly authorizes the municipality to establish the ombudsman's duties and powers and requires the municipality to have regard to the ombudsman's independence, impartiality and the credibility and confidentiality of the investigative process when establishing these duties and powers.

### **2. Who can be appointed as an ombudsman?**

Anyone can be appointed as an ombudsman; he or she need not be an employee of the municipality. The municipality can appoint external investigators, such as lawyers or auditors to perform the investigation.

The ombudsman can also delegate any of his or her powers and duties to any person, other than a member of Council. As such, Council can appoint a point person as the ombudsman, but instruct him or her to delegate the execution of the investigation to external investigators.

### **3. What is the procedure in an ombudsman investigation?**

There is no prescribed investigation procedure by which an ombudsman must abide. This allows the ombudsman to devise a flexible procedure that is appropriate to the scale of the particular investigation.

As part of its mandate, Council can require the ombudsman to publish a draft procedural guide and invite limited, written feedback from stakeholders to ensure public accountability and involvement.

At a minimum, the investigation procedure will involve the review of documents, witness interviews, retention of experts, if necessary, and the production of a final report.

Council can require the ombudsman or external investigator to provide periodic reporting to ensure Council and the public is apprised of the status of the investigation.

### **4. What are the powers of the ombudsman?**

Section 223.14(3) of the Municipal Act empowers the ombudsman to exercise the powers listed in s. 19 of the *Ombudsman Act* which, among other things, gives the ombudsman the right to

summons and examine an employee of the municipality or any other person who has information or documents relating to subject of the investigation.

## **5. What findings can an ombudsman make?**

The ombudsman's investigation must be conducted in private. However, any information that is necessary to establish grounds for the conclusions and recommendations of the report can be made public.

In the final report, the ombudsman, or the external investigator to whom the ombudsman has delegated his or her authority to conduct the investigation, can address any issues identified by Council, including making:

- findings of fact. For example, the ombudsman can make findings as to when an individual became aware of the Report;
- findings of misconduct. For example, the ombudsman can find that an individual ought to have circulated the Report upon becoming aware of its existence; and
- recommendations on policy changes and protocols.

The ombudsman, or the external investigator, cannot make legal findings or conclusions. Any findings of fact or misconduct in his or her report cannot be used to establish civil or criminal liability.

## **6. What is the projected timeframe and expected costs?**

Based on the information we have to date, an ombudsman investigation as to why the Report was not disclosed to Council and/or to the public would take between 2 to 4 months.

A broader investigation to review the manner in which the City addressed all safety concerns about the RHVP, including the lack of disclosure about the Report may take up to 9 months.

The cost of the ombudsman investigation would vary significantly depending on who is appointed to conduct the investigation. By way of comparison, in our view, it would cost approximately \$300,000 for a Bay street firm to investigate why Council, and consequently the public, were not made aware of the information and recommendations contained in the Report.

## **D. Auditor General Investigation**

Under the Municipal Act, a municipality can appoint an auditor general to assist Council in holding itself and its administrators accountable for the quality of stewardship over public funds and for ensuring municipal operations achieve value for money.

Although there is no specific provision in the Municipal Act authorizing an auditor general to conduct investigations, a municipality is entitled to assign the auditor general specific duties, which could include requiring the auditor general to investigate a certain matter.

Once the municipality appoints an auditor general, it can direct the auditor general to delegate his or her authority to an independent, external investigator to conduct an investigation.

### **1. Who sets the scope of the investigation?**

As is the case with the ombudsman investigation, the scope of the auditor general's investigation can be set by the municipality. The Municipality Act expressly authorizes the municipality to establish the auditor general's duties and powers.

### **2. Who can be appointed as an auditor general?**

As is the case with the ombudsman, anyone can be appointed by the municipality and he or she need not be an employee of the municipality. The municipality may engage external investigators, such as lawyers or auditors to perform the investigation.

The auditor general can also delegate his or her powers and duties to any person, other than a member of Council.

### **3. What is the procedure in an auditor general's investigation?**

Like the ombudsman investigation, there is no prescribed investigative procedure by which an auditor general must abide. At a minimum, the investigation procedure will involve the review of documents, witness interviews, retention of experts, if necessary, and the production of a final report.

### **4. What are the powers of an auditor general?**

The auditor general's procedural powers are enumerated in s. 33 of the Public Inquiries Act (as opposed to the Ombudsman Act, which confers procedural powers on the ombudsman). This is significant because while in both cases, the investigator can summon witnesses and compel production of documents from third parties, only the auditor general has the power to apply to the Court to apprehend a witness who failed to appear upon receiving a summons. This power is not afforded to the ombudsman under the Ombudsman Act.

### **5. What findings can an auditor general make?**

As is the case with the ombudsman, the auditor general, or the external investigator to whom the auditor general has delegated his or her authority, can make:

- findings of fact. For example, he or she can make findings as to when an individual became aware of the Report;
- findings of misconduct. For example, he or she can find that an individual ought to have circulated the Report upon becoming aware of its existence; and
- recommendations on policy changes and protocols.

The auditor general, or the external investigator, cannot make legal findings or conclusions. Any findings of fact or misconduct in his or her report cannot be used to establish civil or criminal liability.

#### **6. What is the projected time frame and expected costs?**

The cost and time projections for the auditor general investigation are the same as the ombudsman investigation.

We believe it would take approximately 2 to 4 months to investigate why the Report was not disclosed to Council or the public and up to 9 months for the broader investigation as to whether the City appropriately addressed safety concerns relating to the RHVP.

The cost of the investigation will vary greatly depending on who conducts the investigation. By way of comparison, in our view, it would cost approximately \$300,000 for a Bay street firm to investigate why Council, and consequently the public, were not made aware of the information and recommendations contained in the Report.

### **IV. Recommendation**

Based on the information we have been provided, we do not recommend commencing a judicial inquiry to investigate why the Report was not disclosed to Council or the public. As detailed above, judicial inquiries are better suited for large, complex investigations and, as such, tend to be expensive and lengthy. Furthermore, while the municipality will bear all costs associated with the inquiry, it will have no control of the investigation process.

An investigation by the ombudsman or auditor general is better suited to investigate the failure to disclose the Report as it is a discrete issue that can efficiently be investigated through the production of documents and examination of witnesses. Council can devise the structure of the investigation to allow for public accountability and involvement, while ensuring the investigation is cost-effective and completed in a timely fashion.

Council can also direct the ombudsman or auditor general to delegate their powers to an independent, external investigator, such as lawyers or auditors, to conduct the investigation.

As a next step, we recommend that Council confirm the precise nature and scope of the investigation it wishes to commence. Following this, we would be please to provide a follow up report to confirm what kind of investigation Council should commence and address any questions that may remain after our presentation on March 20, 2019.

Ontario Statutes  
Municipal Act, 2001  
Part VI — Practices and Procedures (ss. 224-284.1)  
Judicial Investigation

**Most Recently Cited in:** [RSJ Holdings Inc. v. London \(City\)](#), 2007 SCC 29, 2007 CarswellOnt 3919, 2007 CarswellOnt 3920, 36 M.P.L.R. (4th) 1, 36 M.P.L.R. (4th) 2, J.E. 2007-1242, 283 D.L.R. (4th) 257, [2007] S.C.J. No. 29, 364 N.R. 362, 226 O.A.C. 375, [2007] 2 S.C.R. 588, 157 A.C.W.S. (3d) 842 | (S.C.C., Jun 21, 2007)

S.O. 2001, c. 25, s. 274

s 274.

Currency

274.

**274(1) Investigation by judge**

If a municipality so requests by resolution, a judge of the Superior Court of Justice shall,

- (a) investigate any supposed breach of trust or other misconduct of a member of council, an employee of the municipality or a person having a contract with the municipality in relation to the duties or obligations of that person to the municipality;
- (b) inquire into any matter connected with the good government of the municipality; or
- (c) inquire into the conduct of any part of the public business of the municipality, including business conducted by a commission appointed by the council or elected by the electors.

**274(2) Application of *Public Inquiries Act, 2009***

Section 33 of the *Public Inquiries Act, 2009* applies to the investigation or inquiry by the judge.

**274(3) Report**

The judge shall report the results of the investigation or inquiry to the council as soon as practicable.

**274(4) Counsel**

The council may hire counsel to represent the municipality and pay fees for witnesses who are summoned to give evidence at the investigation or inquiry.

**274(5) Representation by counsel**

Any person whose conduct is called into question in the investigation or inquiry may be represented by counsel.

**274(6) Costs**

The judge may engage counsel and other persons to assist in the investigation or inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the municipality.

**Amendment History**

2009, c. 33, Sched. 6, s. 72(5)

Currency

Ontario Current to Gazette Vol. 152:07 (February 16, 2019)

---

End of Document

Copyright © Thomson Reuters Canada Limited or its licensors (excluding individual court documents). All rights reserved.

Ontario Statutes  
Public Inquiries Act, 2009  
Procedures under Other Acts

**Most Recently Cited in:** [Ontario \(College of Physicians and Surgeons of Ontario\) v. Mrozek](#), 2018 ONCPSD 17, 2018 CarswellOnt 5402 | (Ont. C.P.S.D.C., Apr 6, 2018)

S.O. 2009, c. 33, Sched. 6, s. 33

## s 33. Former Part II inquiries

### Currency

#### **33. Former Part II inquiries**

##### **33(1) Definition**

In this section,

"**inquiry**" includes a determination, examination, hearing, inquiry, investigation, review or other activity to which this section is applicable.

##### **33(2) Standard procedure**

This section applies where another Act or a regulation confers on a person or body the power to conduct an inquiry in accordance with this section or certain provisions of this section.

##### **33(3) Power to summon witnesses, papers, etc.**

The person or body conducting the inquiry may require any person by summons,

- (a) to give evidence on oath or affirmation at the inquiry; or
- (b) to produce in evidence at the inquiry such documents and things as the person or body conducting the inquiry may specify,

relevant to the subject matter of the inquiry and not inadmissible in evidence under subsection (13).

##### **33(4) Form and service of summons**

A summons issued under subsection (3) shall be in either the English or French version of the form prescribed by the regulations and shall be served personally on the person summoned and he or she shall be paid at the time of service the like fees and allowances for attendance as a witness before the person or body conducting the inquiry as are paid for the attendance of a witness summoned to attend before the Superior Court of Justice.

##### **33(5) Stated case for contempt for failure to attend hearing, etc.**

Where any person without lawful excuse,

- (a) on being duly summoned under subsection (3) as a witness at an inquiry makes default in attending at the inquiry; or
- (b) being in attendance as a witness at an inquiry, refuses to take an oath or to make an affirmation legally required by the person or body conducting the inquiry to be taken or made, or to produce any document or thing in his or

her power or control legally required by the person or body conducting the inquiry to be produced, or to answer any question to which the person or body conducting the inquiry may legally require an answer; or

(c) does any other thing that, if the person or body conducting the inquiry had been a court of law having power to commit for contempt, would have been contempt of that court,

the person or body conducting the inquiry may state a case to the Divisional Court setting out the facts and that court may, on the application of the person or body conducting the inquiry or of the Attorney General, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he or she had been guilty of contempt of the court.

### **33(6)Protection of witnesses**

A witness at an inquiry shall be deemed to have objected to answer any question asked him or her upon the ground that his or her answer may tend to criminate the witness or may tend to establish his or her liability to civil proceedings at the instance of the Crown or of any person, and no answer given by a witness at an inquiry shall be used or be receivable in evidence against him or her in any trial or other proceedings against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence.

### **33(7)Right to object**

A witness shall be informed by the person or body conducting the inquiry of his or her right to object to answer any question under section 5 of the *Canada Evidence Act*.

### **33(8)No discipline of employees**

No adverse employment action shall be taken against any employee of any person because the employee, acting in good faith, has made representations as a party or has disclosed information either in evidence or otherwise to a person or body conducting the inquiry under the applicable Act or to the staff of a person or body conducting the inquiry.

### **33(9)Offence**

Any person who, contrary to subsection (8), takes adverse employment action against an employee is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

### **33(10)Application**

This section applies despite any other Act and the oath of office of a public servant within the meaning of the *Public Service of Ontario Act, 2006* is not breached where information is disclosed as described in subsection (8).

### **33(11)Effective date**

This section applies to representations made, and information disclosed, on or after June 12, 2000.

### **33(12)Unsworn evidence admissible**

A person or body conducting the inquiry may admit at an inquiry evidence not given under oath or affirmation.

### **33(13)Privilege**

Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence.

### **33(14)Release of documents**

Documents and things produced in evidence at an inquiry shall, upon request of the person who produced them or the person entitled thereto, be released to the person by the person or body conducting the inquiry within a reasonable time.

### **33(15)Photocopies of documents**

Where a document has been produced in evidence before a person or body conducting the inquiry, the person or body conducting the inquiry may or the person producing it may with the leave of the person or body conducting the inquiry,

cause the document to be photocopied and the photocopy may be filed in evidence in the place of the document produced, and a copy of a document produced in evidence, certified to be a true copy thereof by the person or body conducting the inquiry, is admissible in evidence in proceedings in which the document produced is admissible, as evidence of the document produced.

**33(16) Power to administer oaths and require evidence under oath**

A person or body conducting an inquiry has power to administer oaths and affirmations for the purpose of the inquiry and may require evidence to be given under oath or affirmation.

**33(17) Powers of multiple appointees**

Where two or more persons are appointed to make an inquiry, any one of them may exercise the powers conferred by subsection (3), (4), (14), (15) or (16).

**Currency**

Ontario Current to Gazette Vol. 152:07 (February 16, 2019)

## Ontario Statutes

## Municipal Act, 2001

## Part V.1 — Accountability and Transparency (ss. 223.1-223.24) [Heading added 2006, c. 32, Sched. A, s. 98.]

S.O. 2001, c. 25, s. 223.13

## S 223.13

## Currency

**223.13****223.13(1) Ombudsman**

Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Ombudsman who reports to council and whose function is to investigate in an independent manner any decision or recommendation made or act done or omitted in the course of the administration of the municipality, its local boards and such municipally-controlled corporations as the municipality may specify and affecting any person or body of persons in his, her or its personal capacity.

**223.13(2) Powers and duties**

Subject to this Part, in carrying out the functions under subsection (1), the Ombudsman may exercise the powers and shall perform the duties assigned to him or her by the municipality.

**223.13(3) Matters to which municipality is to have regard**

In appointing the Ombudsman and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (5).

**223.13(4) Same, Ombudsman**

In carrying out his or her functions under subsection (1), the Ombudsman shall have regard to, among other matters, the importance of the matters listed in subsection (5).

**223.13(5) Same**

The matters referred to in subsections (3) and (4) are,

- (a) the Ombudsman's independence and impartiality;
- (b) confidentiality with respect to the Ombudsman's activities; and
- (c) the credibility of the Ombudsman's investigative process.

**223.13(6) Powers paramount**

The powers conferred on the Ombudsman under this Part may be exercised despite any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect of them, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

**223.13(7) Decisions not reviewable**

Nothing in this Part empowers the Ombudsman to investigate any decision, recommendation, act or omission,

(a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired; or

(b) of any person acting as legal adviser to the municipality, a local board or a municipally-controlled corporation or acting as counsel to any of them in relation to any proceedings.

**223.13(8) Delegation**

The Ombudsman may delegate in writing to any person, other than a member of council, any of the Ombudsman's powers and duties under this Part.

**223.13(9) Same**

The Ombudsman may continue to exercise the delegated powers and duties, despite the delegation.

**223.13(10) Status**

The Ombudsman is not required to be a municipal employee.

**Amendment History**

2006, c. 32, Sched. A, s. 98

**Currency**

Ontario Current to Gazette Vol. 152:07 (February 16, 2019)

## Ontario Statutes

## Municipal Act, 2001

## Part V.1 — Accountability and Transparency (ss. 223.1-223.24) [Heading added 2006, c. 32, Sched. A, s. 98.]

S.O. 2001, c. 25, s. 223.14

## S 223.14

## Currency

**223.14****223.14(1) Investigation**

Every investigation by the Ombudsman shall be conducted in private.

**223.14(2) Opportunity to make representations**

The Ombudsman may hear or obtain information from such persons as he or she thinks fit, and may make such inquiries as he or she thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but if at any time during the course of an investigation it appears to the Ombudsman that there may be sufficient grounds for him or her to make any report or recommendation that may adversely affect the municipality, a local board, a municipally-controlled corporation or any other person, the Ombudsman shall give him, her or it an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel.

**223.14(3) Application of *Ombudsman Act***

Section 19 of the *Ombudsman Act* applies to the exercise of powers and the performance of duties by the Ombudsman under this Part and, for the purpose, references in section 19 of that Act to "any public sector body" are deemed to be references to "the municipality, a local board or a municipally-controlled corporation".

**223.14(4)** [Repealed 2014, c. 13, Sched. 9, s. 21.]**Amendment History**

2006, c. 32, Sched. A, s. 98; 2006, c. 35, Sched. C, s. 134(3); 2014, c. 13, Sched. 9, s. 21

**Currency**

Ontario Current to Gazette Vol. 152:07 (February 16, 2019)

Ontario Statutes

Municipal Act, 2001

Part V.1 — Accountability and Transparency (ss. 223.1-223.24) [Heading added 2006, c. 32, Sched. A, s. 98.]

S.O. 2001, c. 25, s. 223.15

## s 223.15

### Currency

#### **223.15**

##### **223.15(1)Duty of confidentiality**

Subject to subsection (2), the Ombudsman and every person acting under the instructions of the Ombudsman shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

##### **223.15(2)Disclosure**

The Ombudsman may disclose in any report made by him or her under this Part such matters as in the Ombudsman's opinion ought to be disclosed in order to establish grounds for his or her conclusions and recommendations.

##### **223.15(3)Section prevails**

This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

#### **Amendment History**

2006, c. 32, Sched. A, s. 98

#### **Currency**

Ontario Current to Gazette Vol. 152:07 (February 16, 2019)

[Ontario Statutes](#)[Municipal Act, 2001](#)[Part V.1 – Accountability and Transparency \(ss. 223.1-223.24\) \[Heading added 2006, c. 32, Sched. A, s. 98.\]](#)

**Most Recently Cited in:** [Georgina \(Town\) v. Blanchard](#), 2016 ONCA 122, 2016 CarswellOnt 2112, 55 M.P.L.R. (5th) 228, 263 A.C.W.S. (3d) 776 | (Ont. C.A., Feb 12, 2016)

S.O. 2001, c. 25, s. 223.16

s 223.16 No review, etc.

[Currency](#)**223.16 No review, etc.**

No proceeding of the Ombudsman under this Part shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court.

**Amendment History**

2006, c. 32, Sched. A, s. 98

**Currency**

Ontario Current to Gazette Vol. 152:07 (February 16, 2019)

























