

ADR CHAMBERS OMBUDS OFFICE

OMBUDSMAN FOR THE CITY OF BURLINGTON

2017

ANNUAL REPORT

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MESSAGE FROM THE OMBUDSMAN

I am pleased to provide our second Annual Report for the City of Burlington.

ADR Chambers has been providing Ombudsman Services for the City for approximately two years.

Ombudsman services are provided to ensure that members of the public receive fair and accountable treatment from their municipality and when that does not occur, to make recommendations for improvement.

Complaints may be made to our office once a complainant has gone through the municipality's internal complaint system and the complainant is unsatisfied with the outcome. Where we see potential for resolution, we will act as a go-between and mediate the issues to help reach a resolution satisfactory to all parties. Where resolution is not possible, we will investigate the complaint and may recommend the municipality take certain action.

It is important to understand that we do not replace decision-makers with our own recommendations and it is not our goal to impose our decisions on the municipality. Instead, we endeavour to ensure that the process is working as it should and we provide a neutral third-party oversight in this regard. Our work as an independent office attempts to promote fair treatment and works to ensure the right people are taking ownership and action.

Over the next year we will continue to work hard to carry out our important responsibilities and do our best to ensure both municipal officials and members of the public are aware of our services and that they can call on us for assistance when required.

April Schulze

Ombudsman

ADR CHAMBERS OMBUDS OFFICE

ADR CHAMBERS OMBUDS OFFICE TEAM

ADR Chambers Ombuds Office is headed by the Ombudsman, April Schulze. April was called to the Alberta bar in 2008 and the Ontario bar in 2015 and, prior to joining ADR Chambers Ombuds Office, she practiced civil litigation with private law firms in both Calgary and Grande Prairie, Alberta.

The Ombudsman is supported by a Deputy Ombudsman, Peter Maniatakis, as well as an Intake Officer.

Additionally, ADR Chambers Ombuds Office has a roster of experienced investigators, who also have experience in law, dispute resolution, and complaint handling.

ADR Chambers Ombuds Office and its staff act in compliance with accessibility, privacy legislation, obligations of confidentiality, and applicable codes of conduct.

WHAT WE DO

ADR Chambers Ombuds Office reviews complaints brought by members of the public about the City of Burlington. If a complainant is dissatisfied with the provision of services, a decision or recommendation made by the City in the administration of municipal services, and the complainant has gone through the City's internal complaint system and is not satisfied with the outcome, they may escalate their complaint to the ADR Chambers Ombuds Office. People may contact our office by phone, online and through the mail.

We investigate complaints with a view to resolving them either by agreement among the parties, or by issuing a report with analysis and conclusions, including any recommendations.

ADR Chambers Ombuds Office ensures all investigations are conducted in a fair, neutral, independent and confidential manner while respecting the rights and time constraints of the individuals involved.

Types of Complaints

The types of complaints that may be submitted by complainants are varied, including complaints about the denial of services or the failure to provide a proper quality of service; complaints that the City has made a decision that is not within their legal power to make; complaints that the City has not followed the appropriate procedures in reaching a decision; and complaints that the City has failed to take a certain action that it is required to take under its rules, procedures or by-laws.

Process

Upon receiving a complaint, ADR Chambers Ombuds Office first considers whether it has the jurisdiction to investigate the complaint.

Situations where ADR Chambers Ombuds Office Will Not Investigate

There are certain matters that are not within our mandate to investigate. These include:

- Matters that are not within the jurisdiction of the City of Burlington
- Complaints regarding the conduct of City Councillors and closed meetings of City Council
- Complaints regarding any decision, recommendation, act or omission of any person acting as a legal adviser to the City or acting as counsel to them in relation to any proceedings
- Matters for which there is a right of appeal, under an Act, to a court or tribunal, unless this right has been exercised or the time to exercise this right has expired

We also cannot investigate where a complainant has not exhausted the City's internal complaint procedures or where more than 12 months have elapsed from the completion of the City's complaint process, unless the Complainant can establish that there were exceptional circumstances justifying the delay.

There are other circumstances where we may decide not to investigate, such as cases where the subject matter of the complaint is trivial or the complaint is frivolous or vexatious, or where we believe that having regard to all of the circumstances of the case, no further investigation is necessary.

If ADR Chambers Ombuds Office does not investigate a complaint for one of the above reasons, the complainant will be notified of this decision in writing and reasons will be provided. Whenever possible, referral information will also be provided.

Complaints Within ADR Chambers Ombuds Office's Mandate

In cases where ADR Chambers Ombuds Office decides that it has the mandate to investigate, the Complainant and the City are informed of the decision and the file is assigned to an investigator.

The investigator reviews the file and first considers whether a mediated resolution might be possible. Where possible, the investigator will seek to mediate a resolution. Where no resolution is possible, the investigator will proceed to gather information and ultimately draft a report containing a description of the complaint, the Ombudsman's findings, and a conclusion and recommendation.

In certain instances, such as cases where the Ombudsman concludes that the City has acted appropriately, the report will indicate that the Ombudsman does not recommend that the City take any action.

In other cases, the Ombudsman will recommend that the City take certain action(s) to remedy a situation. Recommendations seek to achieve a satisfactory resolution of the complaint, however, all recommendations are non-binding.

Draft reports are submitted to the Ombudsman, who reviews the reports, along with another senior staff member. The reports are then circulated to both the Complainant and the City, who are invited to provide comments. The Ombudsman and the investigator consider the comments and make any necessary changes to the report. The final report is then provided to both parties.

2017 COMPLAINTS

ADR Chambers Ombuds Office received 9 contacts about the City of Burlington in 2017. Contacts are instances when complainants contact ADR Chambers Ombuds Office, either by phone or through correspondence, expressing a possible interest in filing a Complaint and seeking information regarding the process. Complaints are not opened until we have a completed and signed Complaint Submission Form.

Of the 9 contacts received regarding the City, 5 complainants were referred to the City, as complainants are first required to bring their complaint to the City before escalating them to the ADR Chambers Ombuds Office.

Additionally, of the 9 contacts, 3 complainants have been advised that we require a Complaint Submission Form to be completed and submitted in order to proceed with their complaints, however, they have yet to submit the completed forms. Complaint Submission Forms are necessary in order to determine whether the complaint is within our mandate and to ensure that all parties are aware of and are prepared to abide by the confidentiality requirement.

Out of the 9 contacts, 1 resulted in a Complaint file being opened. However, this complaint was deemed to be outside our mandate and an Initial View letter was issued.

1 Complaint file that was opened in 2016 was closed in 2017. This Complaint was investigated and a final report was issued.

There was no active investigation at the time this Annual Report was published.

INVESTIGATIONS

We completed one investigation in 2017.

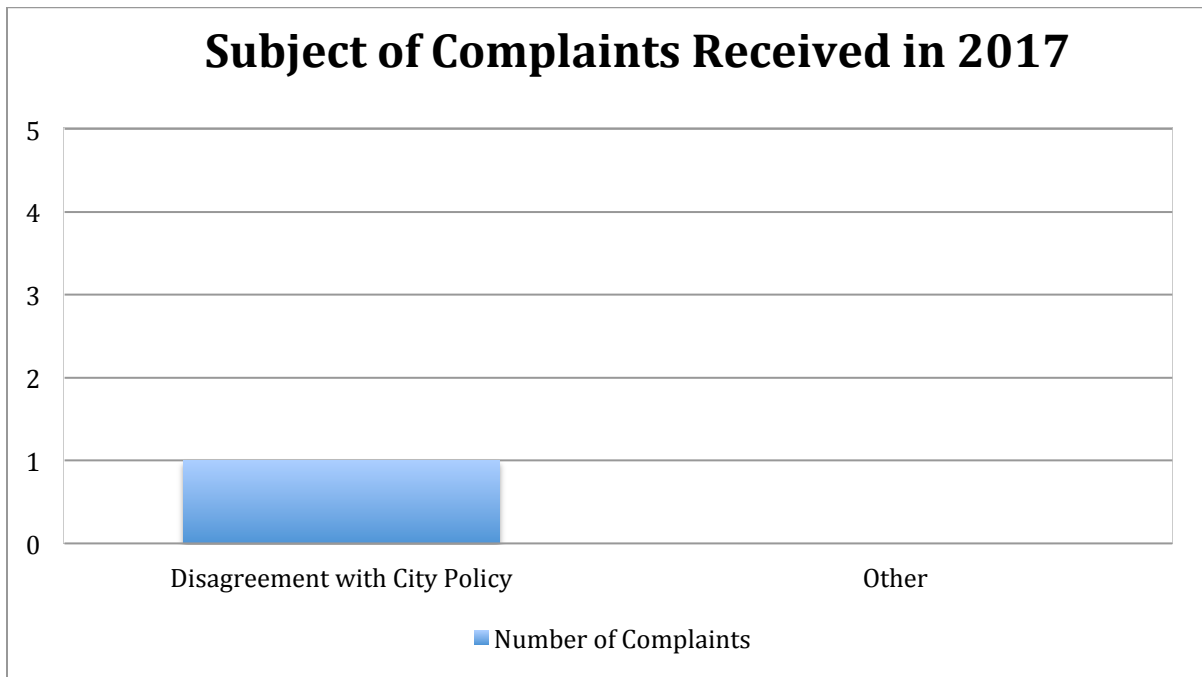
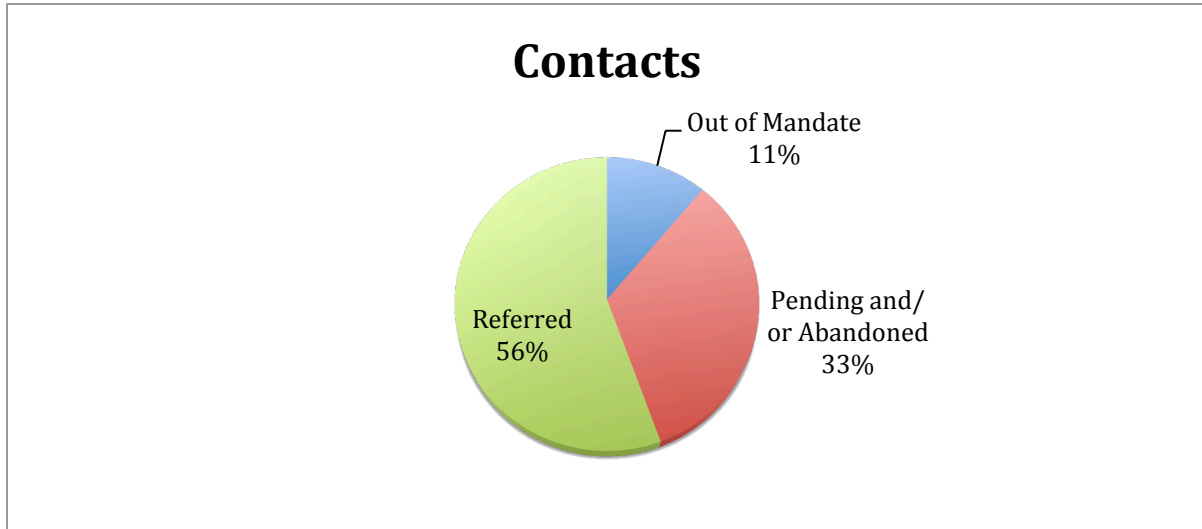
The complainant believed that an administrative error on the part of the City resulted in the complainant being sent property tax bills inappropriately for taxes for years prior to the current year, as well as imposing additional taxes on top of what had already been paid. The complainant believed that being sent tax bills in June 2016 for several thousands of dollars in taxes for 2014-2016, to be paid in two instalments in June and August 2016 was unfair and unreasonable.

Upon completing the investigation, the following findings were made regarding the complaint.

- The timing and issuance of the bills was not the result of administrative error, but was the result of the legislative provisions, as well as the timing of the issuance of the omit assessment by the Municipal Property Assessment Corporation (MPAC). It took 18 months to receive MPAC's assessment of the building and this timing was not in the control of the City or the property owner. Therefore, neither the City nor the property owner was responsible for the number of years the taxes were lagging.
- The City followed its policies and procedures.
- The timeframe for paying omits (generally over two months) appeared to be a matter of municipal policy rather than a requirement of legislation, and it was recommended that at the time of its review of the City policy at issue, the By-law concerning instalment payment provisions should be changed to permit a more generous timeframe for payments without the imposition of interest and penalties.

STATISTICS

Out of the 9 contacts made to our office in 2017, 1 was outside of our mandate, 5 were referred elsewhere, and 3 potential Complaints are pending the return of our Complaint Submission Form.



ADR CHAMBERS OMBUDS OFFICE CONTACT INFORMATION

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ADR Chambers Ombuds Office