



ONTARIO'S WATCHDOG  
CHIEN DE GARDE DE L'ONTARIO

## **OMLET Annual Report 2011-2012 – Ombudsman's remarks** *André Marin*

My office is now in its fifth year of investigating complaints about closed meetings in Ontario municipalities. It is, frankly, something I never expected to be doing when I was first appointed in 2005.

But it has been an eye-opening experience. It allowed us to use our expertise in promoting open government and transparency, and it has given us a front-row view of how passionate people are about their local governments.

It has also shown us that there still a lot of work to do in raising awareness of the Sunshine Law – otherwise known as the open meeting requirements in the *Municipal Act* – amongst the public and even municipal officials themselves.

We have found a marked disparity between municipalities in how they follow the Sunshine Law rules. Some councils are models of transparency; others are shockingly secretive and even defiant in the face of public complaints. In this case, diversity is not a good thing. Transparency in government should not depend on where you live. It should not depend on the whims of local politicians.

Since 2008, as an officer of the provincial legislature who oversees more than 500 government bodies, I have used my office's resources to ease this disparity and promote consistent transparency throughout the province.

We have handled more than 300 complaints since 2008. And this year, we had 128 cases – so many that I thought it was high time they had their own report.

There are no penalties in Ontario's Sunshine Law, like there are in the U.S., for example. When councils run afoul of the rules, I report publicly on my investigations and make recommendations for improvements.

Our focus has been on education, not blame. We have sent copies of our *Sunshine Law Handbook* to every councillor in the province, twice – not just to the 191 municipalities that use us as their investigator, but all of them. We have visited councils that asked us to come and educate them on the rules. In today's report, you'll see the very first page – the inside cover – is a reproduction of a card that we've produced for all councillors. We're sending it to every one of them, so they can carry it with them and refer to whenever they close a meeting, to make sure they're on track. The idea came from one of municipalities we investigated.

The last line of the card is our most basic advice: When in doubt, open the meeting. Unfortunately, for too many councils, it's not that simple.

Even in the fifth year of the Sunshine Law, too many municipal councils are playing by their own rules, closing meetings illegally, voting behind closed doors, you name it.

The good news is that they are in the minority. Most municipalities get it right, and even some of the worst violators have come around after our investigations. But the bad news is that some of the worst offenders are the most recalcitrant. We encountered a surprising amount of resistance and defiance in our investigations this year.

That's another reason for this report. For many of these councils, the resistance stemmed from a lack of familiarity with our office and with the Sunshine Law itself. The greater the public discussion about these issues, the better our local governments will be at holding the doors open and letting the public in.

We took the extra step today to make sure that reporters from across the province could join us and ask questions that relate to their municipalities, and to webcast this event live. We have seen amazing engagement through local reporters and local activists on Twitter who are doing great work to promote open government where they live. This is all in the spirit of the Sunshine Law and I welcome them to the conversation.

I am also taking this opportunity to suggest that all municipalities do one simple thing to make this process simpler – make video or audio recordings of your meetings, including the closed ones. Some municipalities keep very good records; others have almost none. So when we go in to investigate a closed meeting, all we have to work with councillors' recollections. Recording meetings on audio or video would not just save time and resources for all of us, it would help ensure that the rules are being followed. This one change could make an enormous difference to local government transparency in Ontario, and I look forward to reporting on progress on this issue next year.

I'm now happy to answer your questions about the many issues we investigated this year.