



ONTARIO'S WATCHDOG  
CHIEN DE GARDE DE L'ONTARIO

## **Ontario Ombudsman censures Oshawa for “pirating” report** Media availability at 3 p.m. today

**TORONTO (April 27, 2009)** – Ontario Ombudsman André Marin today tabled a report signalling to municipalities that they must respect the law when they engage the services of his office. In his report, *Pirating our Property*, the Ombudsman found the city of Oshawa’s failure to co-operate with his office to be contrary to law.

“The Ombudsman of Ontario is an independent officer of the provincial legislature. The high credibility of the office comes from its ability to conduct thorough, impartial and independent investigations,” Mr. Marin said.

Since January 2008, the Ombudsman has been the default watchdog and enforcer for open meetings in Ontario municipalities. Citizens can complain to him if a municipal council or committee meets in secret or closes its doors in contravention of the *Municipal Act*.

The Ombudsman recently investigated a complaint that an Oshawa council committee improperly met behind closed doors last May in an “education and training” session with representatives of a recycling company that had been the subject of odour complaints. The private discussions involved the firm’s compost facility and potential future development. The Ombudsman concluded the meeting went beyond what is permitted in a closed “education and training” session and was therefore illegal. He issued a final report to the city in March. At that point, he learned Oshawa had disregarded his confidential document handling instructions, breaking its own promises and the law.

The Mayor and city solicitor refused to return copies of the Ombudsman’s confidential preliminary report. Instead, Mr. Marin said, they sought to play a game of legal “chicken,” daring his office to engage in pointless and expensive litigation.

“For more than 30 years, the Office of the Ombudsman of Ontario has been accorded co-operation and compliance by government authorities. Displeased with the report we issued in response to a closed meeting complaint, the City of Oshawa has broken that trend,” Mr. Marin said. Rather than take the litigation bait, he said he chose to “expose this to the sanitizing light of day” through investigation and public reporting.

The Ombudsman is obligated by law to share his findings with the organization he has investigated before publishing a final report. Mr. Marin stressed that keeping preliminary reports confidential is fundamental to the ombudsman tradition of protecting the identities of complainants. “It would be impossible for us to provide the value that we do for Ontarians if government authorities were to greet us with the lawyer’s games and resistance we met in this case,” he said. “We cannot permit that to happen.”

Under the *Municipal Act*, municipalities are free to opt out of the oversight of the Ombudsman and hire their own investigators for closed meeting complaints. “It appears that Oshawa doesn’t want a watchdog but a lapdog,” Mr. Marin said. “If that’s the case, I would invite the city to opt out of the current arrangement. Municipalities cannot ask for the credibility and the independent stamp of our office, and then try to pull the strings. They can’t have it both ways.”

He added that the Ombudsman’s office intends to continue operating, as it has since 1975, according to law and practice as an independent and impartial body.

The Ombudsman’s full report is available online at [www.ombudsman.on.ca](http://www.ombudsman.on.ca) . The report of his earlier investigation into Oshawa’s closed meeting of May 2008 must be made public by the city, which the city has said it expects to do tonight. Thereafter, it will also be available through the Ombudsman’s office and website.

**BACKGROUND NOTES:**

- Since 1975, the Ombudsman’s office has investigated and resolved public complaints and systemic problems throughout the provincial government, through recommendation and moral suasion. Provincial agencies are obligated by law to co-operate with Ombudsman investigations.
- At present, the Ombudsman is the investigator for closed meeting complaints in more than 190 of Ontario’s 445 municipalities, including Oshawa. The Ombudsman’s services are free of charge to complainants and municipalities.
- To date, the Ombudsman’s Open Meeting Law Enforcement Team (OMLET) has conducted six formal investigations of closed meeting complaints and issued five reports (not including Oshawa). These are all available under “Municipal Matters – Investigative Reports” at [www.ombudsman.on.ca](http://www.ombudsman.on.ca) .
- The Ombudsman’s guide to the province’s closed meeting complaint system, *The Sunshine Law Handbook*, is available under “Publications” at [www.ombudsman.on.ca](http://www.ombudsman.on.ca) .

**The Ombudsman will be available to speak to the media on this issue at 3 p.m. today only at his office, 483 Bay Street, Bell Trinity Square, 10<sup>th</sup> Floor, South Tower.**

For more information or to confirm attendance at the media availability, please contact:

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