



OMLET Annual Report 2012-2013
Ombudsman's remarks
André Marin

I want to thank everyone for attending today, in person, by phone and via our live webcast. I thank you for your interest, because I recognize that the report I'm releasing today is not the most compelling municipal news story this year. It can't begin to match the headlines coming out of Toronto City Hall, and it isn't going to be mentioned on any late-night comedy shows.

But it is no less important, because this report is about the health of our local democracy.

For just about six years now, in addition to handling about 20,000 complaints per year about provincial government services, my office has had the added responsibility of investigating public complaints about closed meetings in municipalities. This is because in 2008, Ontario implemented what's known as a "Sunshine Law." It ensures municipal officials keep their meetings open to the public, and allows the public to complain when they are shut out.

Last year, we received so many complaints about closed meetings, I decided to create a special annual report for these cases, which are investigated by our Open Meeting Law Enforcement Team, or OMLET. This year, the number of cases has more than doubled.

The good news is that, six years in, citizens have caught on and are using the Sunshine Law to hold their governments to account. The bad news is that we have a patchwork system, and the gaps that have been there from the start are now gaping holes that can no longer be ignored.

Ontarians deserve an equal level of transparency from their local governments, no matter where they live. Some municipalities deliver, but many are falling short. After six years, it is time for the province to step in and ensure its law is being upheld. I have already offered some suggestions for strengthening the Sunshine Law to the Premier, and I will reiterate them when I meet with her again next month.

We often hear from politicians at all levels that they are ultimately accountable to the voters. This is true, but the test of our democracy should not just come once every four years at the ballot box. There are standards of transparency that we expect our officials to meet every day, and they should face consequences when they don't.

Instead, what we have in Ontario today is a system where some municipalities flout the law repeatedly or devise silly stratagems to get around it, while others observe it strictly – and still others function in blissful ignorance.

This year, we saw the almost comical spectacle of London councillors saying they just happened to meet at a local watering hole on a Saturday morning, days before an important budget vote - when their cell phone records told a very different story.

We had to turn away more than 50 complaints after Sudbury councillors took a sudden vote – allegedly planned via email in advance – to oust my office as investigator in the wake of a report they didn't like.

One mayor thought a secret, unpublicized council meeting couldn't be considered "closed" as long as they left the door open. Other councils persist in taking "show of hands" votes behind closed doors. And many mistakenly close just about any meeting they think might have something to do with "litigation," or fail to keep records because they think they shouldn't.

Some politicians use tricks like absenting themselves from gatherings where business is discussed to make sure they are always one short of quorum. And then they complain that the rules shouldn't prevent them from socializing. To be clear, no one is trying to stop them from having a good time. The rules are there to stop them from playing games with the law. There's a difference.

Clearly, there's a need for education here as well as enforcement, and that is one of the key aims of this report. There is a stunning lack of information in this province about how the Sunshine Law works, and there are almost as many interpretations of it as there are municipal lawyers. There is no one to referee, no central clearing house for reports to allow the public to compare municipalities. My office has worked to cut through the confusion, but there is much work to do.

Next year's municipal elections might well bring the kind of consequences for violators of the Sunshine Law that the *Municipal Act* itself lacks. Until then, I hope this report enlightens more municipal officials and citizens, and I encourage all of the journalists, bloggers and average citizens listening today to keep working to ensure we have consistent transparency across this province.