

Ombudsman provides blueprint for reform

How a senior bureaucrat learned from the Ombudsman's reports

The Ombudsman's investigations have uncovered systemic, ongoing problems in government – and for that, bureaucrats should be grateful, says former Ontario associate secretary of cabinet Michelle DiEmanuele.

"I believe the Ontario Ombudsman has done enough of these reports to suggest we have to update the governance structure as it relates to agencies, boards and commissions – it's out of date," said Ms. DiEmanuele, a former deputy minister who headed up the Ontario Lottery and Gaming Corporation (OLG) in the wake of the Ombudsman's landmark report, *A Game of Trust*.



Michelle DiEmanuele, former Ontario associate secretary of cabinet

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"Ombudsman reports are opportunities to excel at and accelerate reforming government. We're on the same team; we share the same values. It isn't a we/they thing, because we all start from the common goal of public service and of seeing the problem and doing the right thing," she said in a September speech.



Ms. DiEmanuele was the featured speaker at *Sharpening Your Teeth (SYT): Advanced Training for Administrative Watchdogs* – a course for administrative investigators and ombudsmen from across Canada and around the world conducted by the Ontario Ombudsman's Special Ombudsman Response Team (SORT).
[See page 4 for more details on SYT].

An experienced manager in both the private and public sectors, Ms. DiEmanuele spoke candidly about using the Ombudsman's investigation as a catalyst to turn the lottery corporation around. "OLG has gone from problem child to **Continued on page 5...**

MPAC: Close to getting it right

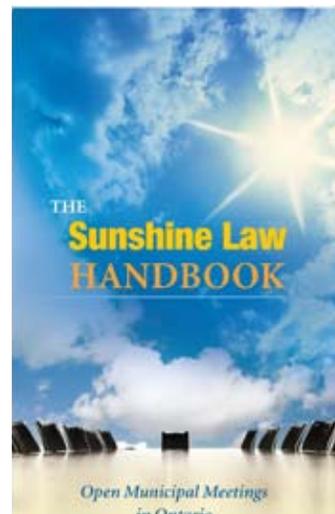
Property assessments began rolling out across the province this fall for the first time since the Ombudsman's report on the Municipal Property Assessment Corporation (MPAC) – *Getting it Right* – was released in March 2006. Shortly after the release of the report, the province froze assessments for two years to allow it and MPAC to implement all of the Ombudsman's 22 recommendations including: Increasing access to MPAC information; improving the accuracy and consistency of property assessments; improving the fairness and integrity of the appeals process; and reversing the onus from the taxpayer to MPAC to prove the accuracy of its assessments.

These and other changes have been made to make the system fairer and more transparent. MPAC has also set up its own special response team to deal with complaints relating to the Ombudsman's recommendations.

In its October 2008 update report to the Ombudsman, MPAC noted that it has fulfilled its commitment to implementing all the recommendations that fell within its jurisdiction.

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Sunshine Law Handbook



Mayors and councillors in all of Ontario's municipalities now have copies of the Ombudsman's *Sunshine Law Handbook*, the first public guide to the province's new system of enforcing open meetings in all municipalities. It is available to the public from the Ombudsman's office or online at www.ombudsman.on.ca under Publications and Resources, or Municipal Matters.

FEATURE STORY

Hitting the jackpot: Ombudsman lottery investigation has widespread benefits - OLG pledges further improvements



Two years ago, in the fall of 2006,

Ontario Ombudsman

André Marin launched what would become his best-known investigation so far: The probe of the province's lottery system. It touched off a series of dramatic changes that affected everyone from the top levels of the Ontario Lottery and Gaming Corporation (OLG) to millions of players.

Along the way, there were hundreds of media reports, similar investigations in other jurisdictions (from B.C. to Iowa) and lessons learned that can apply to almost any public agency that has, as the OLG's new leaders put it, "lost its way."

This fall, that process officially concluded with the OLG's final report to the Ombudsman, summarizing how it has implemented every recommendation

made in his report, *A Game of Trust* – and then some.

"Guided by your report and recommendations, meaningful and widespread changes have been implemented at OLG," CEO Kelly McDougald and senior VP George Sweny said in submitting their "Summary Report" to the Ombudsman. "A culture devoted to player protection has been fostered. Our collective commitment to fairness and integrity has been renewed."

The OLG met its commitment to implement all of the Ombudsman's recommendations by the end of March 2008, one year after his report was issued. It has also implemented all the recommendations of private consulting firm KPMG. In addition, the OLG reported to the Ombudsman in August that it had retained Deloitte & Touche to conduct a forensic audit of data going back to 1995. "Any findings that suggest criminal behaviour will be immediately turned

over to authorities – and if necessary, further changes will be made to our already much-improved systems," Ms. McDougald and Mr. Sweny said.

The Ombudsman said he is "very satisfied with the OLG's response and the progress they have made. They've embraced the spirit of the recommendations and in some cases, gone even further."

The OLG has come a long way from October 2006, when public concerns were first raised about "insiders" winning more than their fair share of prizes – and the corporation turning a blind eye to the problem. Changes most visible to lottery players now include:

- All players must sign their tickets;
 - All retail outlets must have ticket-checker machines;
 - Retail terminals "freeze" (requiring the OLG to speak to the winner on the spot) for all wins of \$5,000 or more.
- Other changes still in the works include

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The Ombudsman welcomed international visitors recently and shared insights into how the office conducts investigations.



Left: Ontario Ombudsman André Marin with Paulyn Marrinan Quinn, Ireland's Ombudsman for the Defence Forces - October 2008

Right: Ann Abraham, the U.K.'s Parliamentary and Health Service Ombudsman with Ontario Ombudsman André Marin - September 2008



Ombudsman named one of the top newsmakers of the year - *The Law Times*

In an editorial from its December 15, 2008 edition, the *Law Times* Ontario weekly named Ontario Ombudsman André Marin as one of their top three newsmakers of 2008 for tackling "both the province's legal aid system and the Special Investigations Unit." The other top newsmakers were "business law guru" Purdy Crawford, and Court of Appeal Justice Stephen Goudge.



Feature Story: Hitting the Jackpot - Continued from page 2

a “Player Identification Card” system, expected by the end of fiscal 2009, and ticket-checking for all “instant-win” games, to be implemented by fall 2009, the OLG reports.

Numerous changes were also made to improve the security and accountability of the lottery system as recommended by the Ombudsman. Lottery retailers and complaints are now regulated by the Alcohol and Gaming Commission of Ontario, and all ticket retailers are registered, subjected to a code of conduct and tested via the use of “secret shoppers.” Some 2,000 “secret shopper” visits were conducted from January through March 2008, and warning letters were issued to 300 retailers who “were not in full compliance with OLG expectations,” the OLG report states.

But perhaps the most profound changes resulting from *A Game of Trust* are the “cultural” shifts that occurred inside the organization, from the top down, the OLG report notes. “The Ombudsman spoke very clearly about the need for a culture change within OLG,” it says, adding that changes included a “significant

turnover” of the senior executive team, the establishment of an “Office of Player Protection,” and a recommitment to the OLG’s role as a public servant.

The report stresses that over the next year, the OLG will “continue to focus on embedding the spirit and intent of the Ombudsman’s recommendations in the fabric of this organization.”

In fact, it acknowledges that some of the changes still need to be “reworked” – in particular the tough new screening process for major prize winners. Customers have complained that winning a big prize has gone from being “special, fun and exciting” to “clinical, interrogative and time-consuming,” the report says. “The major prize claim process at the Toronto Prize Centre requires review and rework to maintain the integrity of the system yet return the fun and happiness to claiming a major lottery prize.”

Overall, however, the key emphasis in Ms. McDougald and Mr. Sweny’s report is on the positive change that such an investigation can bring:

“Responding to the Ombudsman’s recommendations taught us the im-

portance of professional and objective evaluations that are compared against benchmarks from leading organizations and validated by reviews and analyses conducted by independent third parties,” it says. “Regular evaluation is a key best practice that is crucial to building and maintaining a culture of continuous improvement, thereby holding ourselves to only the highest standards.”

The OLG’s lottery sales in fiscal 2007-2008 totalled \$2.77 billion, resulting in \$687 million in net revenue for the Province of Ontario.



Long-Term Care Investigation Update:

The Ombudsman’s investigation into the province’s monitoring of long-term care facilities is almost done. Investigators will soon wrap up their interviews and other field work, and the report is expected to be completed in early 2009.

MPPs of all political stripes support expansion of Ombudsman mandate to include “seniors’ issues”

While debating a private member’s bill on the creation of a seniors’ ombudsman, members of all three Ontario political parties were in agreement over the issue of Ombudsman oversight of “seniors’ issues” including long-term care facilities.

Here are some excerpts from the debate on October 23, 2008:

Liberal MPP Tony Ruprecht (Davenport): “Everyone who has commented on that in this place agrees that the Ombudsman should have jurisdiction to investigate these kinds of complaints and there’s no reason why he can’t.”

Progressive Conservative MPP Peter Shurman (Thornhill): “I would support an expansion of the current mandate of the already-existing Ontario Ombudsman to include seniors’ issues and I would work with my friend to effect that.”

NDP MPP Cheri Di Novo (Parkdale-High Park): “We think that André Marin could do the job, clearly, and so does the member from Thornhill. Extend his jurisdiction.”

The debate concerned the second reading of Bill 102, an Act to establish the Seniors’ Ombudsman – a private members’ bill introduced by Liberal MPP, Mario Sergio (York West). While they supported having effective

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Watchdogs sharpen their teeth

Sharpening Your Teeth investigative training praised as “extremely motivational” and “thought-provoking”

Back by popular demand, the three-day course **Sharpening Your Teeth: Advanced Investigative Training for Administrative Watchdogs** showcased the techniques and successes of Ontario’s Special Ombudsman Response Team (SORT) to participants from around the world in September. The course was conducted by the Ontario Ombudsman’s office on a complete cost-recovery basis and was financially supported by the International Ombudsman Institute.

Unique in its focus – systemic investigations – the September 22-24 course brought together 54 investigative and ombudsman staff from Scotland, Ireland, the Netherlands, Bermuda, Gibraltar, Antigua and Barbuda, along with representatives from the offices of the Métis Ombudsman, Veterans Ombudsman, Canadian Human Rights Commission, and several provincial oversight offices.

Also represented were the U.S. Department of Homeland Security and the U.K. Parliamentary and Health Service Ombudsman.

Participants were briefed on SORT’s methods of selecting and planning investigations, conducting interviews, assessing evidence, report writing and communicating with the public – with sessions conducted by Ontario Ombudsman André Marin, SORT Director Gareth Jones and other investigative, legal and communications staff.

Feedback from participants was overwhelmingly positive: “It was the most useful training I have taken since I have been appointed,” one said. There is already a waiting list for the third edition of the course, planned for 2009.

 **Sign up at:** <http://www.ombudsman.on.ca/en/what-we-do/training.aspx>.



Deputy Ontario Ombudsman Barbara Finlay, Ontario Ombudsman André Marin, Gareth Jones, Director, Special Ombudsman Response Team, and David Paciocco, Professor of Law, University of Ottawa



MPAC - Continued from Page 1

“We believe the changes we made have resulted in greater transparency, improved accuracy and better public understanding of the assessment process and MPAC’s role in property taxation,” Debbie Zimmerman, Chair of MPAC’s Board of Directors, wrote in a November letter to the Ombudsman. “The gains we have realized are closely linked with many other initiatives that we have launched to improve service to our shared customers, the property taxpayers of Ontario.”

The Ombudsman’s office continues to have quarterly meetings with senior MPAC officials to ensure the spirit and intent of the Ombudsman’s recommendations are carried forward into the new assessment cycle. Ombudsman staff are also monitoring new complaints about MPAC, which have gone down significantly from 3,720 after the investigation was announced two years ago, to 109 complaints since the latest assessment mailout began.

A recent complaint involved a property owner who spotted a problem with his assessment as soon as it arrived in October 2008. The man had previously complained to MPAC about his assessment being too high (his property abuts a highway and hasn’t changed since 1975) and it was adjusted in 2006 via an “amended valuation notice.” In the new assessment, MPAC had failed to carry over that adjustment. This is similar to a systemic problem the Ombudsman reported in *Getting it Right*. He specifically recommended that adjustments made to assessments in “minutes of settlement” after the reconsideration or appeal process be applied to future assessments – in other words, that reductions be reflected in the next assessment.

The new case involved a different process – compared to “minutes of settlement,” amended valuation notices are less formal, and MPAC did not carry them forward to the 2008 assessments. MPAC advised the Ombudsman that a small number of property owners – those whose assessments were amended before mid-November of an assessment year – were affected by this, but that this would be fixed. MPAC reviewed the man’s case and agreed to reduce his assessment by \$34,000.



Blueprint for reform - Continued from Page 1

poster child,” she said, noting that in the wake of the Ombudsman’s investigation, the corporation exited half its management team, implemented over 150 action items to reduce risk and implemented a new regulatory framework. The costs were in the millions.

That led Ms. DiEmanuele to consider the greater costs of bad administration, she said. “I looked at other SORT reports and saw we had problems in a number of agencies that had been uncovered by the Ombudsman.” Now the CEO of Credit Valley Hospital, she added: “Had I stayed in government, I would have looked at the expense of implementing all of these Ombudsman reports and done a thoughtful analysis of how we could have done it better. Had we made these investments, often on infrastructure and good management principles (after cuts against other pressures), could we have saved money in the longer term?”

Among the trends she noticed in the Ombudsman’s SORT reports was a problem with ministries failing to renew their memoranda of understanding (MOUs) with problem agencies for several years (for example, the Criminal Injuries Compensation Board did not have an MOU with the Ministry of the Attorney General for 13 years). Ms. DiEmanuele said that prompted her to urge deputy ministers across government to make sure MOUs were in place at all agencies, boards and commissions. “This wasn’t happening, despite ministerial directives and we built the reporting into our natural planning cycles. As well, across government, leaders spent a great deal of time to strengthen our transfer payment agreements, MOU’s, etc, as a result of both the Auditor General and the Ombudsman’s work.”



Ontario Ombudsman André Marin, and Michelle DiEmanuele, former Ontario associate secretary of cabinet

While the Ombudsman’s report provided “a blueprint for fixing the organization,” an ongoing dialogue with the Ombudsman’s office ensured that the recommendations were addressed effectively, she said. “It shouldn’t just end when you receive the report.” She also recognized that its lessons could be applied well beyond the OLG: “We took those lessons learned and talked about implementing them throughout government. We worked in partnership to achieve results for the public.”

Ms. DiEmanuele said she feels there is still a great deal of work to do in government, because “large bureaucracies can always become very complacent.” But in the future, she would like to see watchdog agencies and public servants “come together in a strategic way to make government work better for people.”

“I tell my colleagues to view reports like the Ombudsman’s as a chance to do so much more, not just a symptom that has to be cured. Public servants need to stand back a bit, and not just react to the black-and-white reports when they land. We need to make sure we look at lessons and how they can be applied to

the whole of government, and not just the problem or the front page.”

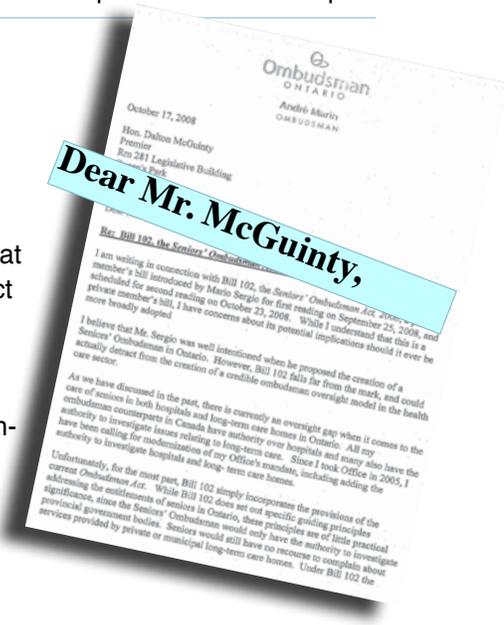
Ms. DiEmanuele noted that the province’s 67,000 public servants have to work each day to do the right thing and a good job for the people of Ontario. “Often the changes recommended have been contemplated by these hard working public servants.”

As for the administrative watchdogs in her audience, Ms. DiEmanuele urged them to be bold in their investigations: “If you come up against a small minority who are obstinate and belligerent, then you need to know – push harder for the public.”

MPPs support expansion - Continued from Page 3

oversight of protection of seniors, many MPPs of all stripes thought seniors would be far better served by expanding the Ontario Ombudsman’s role to include oversight of hospitals and long-term care.

In a letter sent to the Premier earlier in October, Ombudsman André Marin pointed out that the proposed “Seniors’ Ombudsman” bill “falls far from the mark, and could actually detract from the creation of a credible ombudsman oversight model in the health care sector.” It would leave seniors with no recourse to complain about services by private or municipal long-term care homes, and the Seniors’ Ombudsman would be relegated to the role of an advocate, he warned. The Bill was referred to the Standing Committee on General Govern-



Dear Mr. McGuinty,

October 17, 2008
Hon. Dalton McGuinty
Premier
Rm 281 Legislative Building
Queen's Park

Re: Bill 102, the Seniors' Ombudsman Act

I am writing in connection with Bill 102, the Seniors' Ombudsman Act, which was introduced by Mario Sergio for first reading on September 25, 2008, and scheduled for second reading on October 23, 2008. While I understand that this is a private member's bill, I have concerns about its potential implications should it ever be more broadly adopted.

I believe that Mr. Sergio was well intentioned when he proposed the creation of a Seniors' Ombudsman in Ontario. However, Bill 102 falls far from the mark, and could actually detract from the creation of a credible ombudsman oversight model in the health care sector.

As we have discussed in the past, there is currently an oversight gap when it comes to the care of seniors in both hospitals and long-term care homes in Ontario. All my ombudsmen counterparts in Canada have authority over hospitals and many also have the authority to investigate issues relating to long-term care. Since I took Office in 2005, I have been calling for modernization of my Office's mandate, including adding the authority to investigate hospitals and long-term care homes.

Unfortunately, for the most part, Bill 102 simply incorporates the provisions of the current Ombudsman Act. While Bill 102 does set out specific guiding principles addressing the entitlements of seniors in Ontario, these principles are of little practical significance, since the Seniors' Ombudsman would only have the authority to investigate provincial government bodies. Seniors would still have no recourse to complain about services provided by private or municipal long-term care homes. Under Bill 102 the

CASE SUMMARY

Ombudsman helps diabetic senior acquire funding for pork insulin

A diabetic senior who cannot tolerate synthetic insulin and can only use pork insulin complained to the Ombudsman that the Ontario Drug Benefit Program refused to pay for her pork insulin. The insulin cost approximately \$150 a month. The cost of the pork insulin had been covered by the Alberta government when the woman lived there, but when she moved back to Ontario to be closer to her son and grandchildren, she could only get coverage for synthetic insulin.

The woman was unable to use synthetic insulin as it had previously caused her to have severe reactions, resulting in her having to be hospitalized on more than one occasion.

Pork insulin is not listed in the Ontario Drug Benefit Plan Formulary and is only funded on a case-by-case basis through the Ministry of Health and Long Term Care's exceptional access program. The woman and her physicians had been trying to get Ministry approval for funding for the pork

insulin for over a year but had been turned down repeatedly. The Ombudsman's office arranged for the woman's family doctor to discuss her situation with a Ministry pharmacist in order to explain why it was necessary for her to use the pork insulin and why synthetic insulin was not an option for her. The Ministry originally persisted in its position, refusing the complainant's request for funding. However, just before the Ombudsman was ready to commence a formal investiga-

tion, a Ministry staff member advised that they had re-reviewed the woman's file and the Ministry was prepared to approve the woman's coverage for pork insulin on compassionate grounds. The woman was approved for coverage for one year with the condition that she could apply to extend the coverage at the year's end. She was extremely happy and thanked the Ombudsman's office for its assistance.

New Brochure!



Our general information brochure has been revised and updated. View it on our website, or request hard copies by contacting info@ombudsman.on.ca / 1-800-263-1830.

Ombudsman staff Run for the Cure



Ombudsman staff took part in the annual CIBC Run for the Cure on October 5, 2008, in Toronto, raising \$3,260.00 for the fight against breast cancer. The "Ombudsman Team for Barb T" ran in memory of Barbara Theobalds, the Ombudsman's former Media Relations Advisor, who passed away earlier this year.

HOW TO COMPLAIN

The Ombudsman's Office oversees and investigates about 500 different provincial ministries, agencies, tribunals, and Crown corporations. File a complaint online or download a complaint form.

Phone: 1-800-263-1830, Fax: 416-586-3485 / TTY (teletypewriter): 1-866-411-4211

Email: info@ombudsman.on.ca / Write: Ombudsman Ontario, Bell Trinity Square, 483 Bay St., 10th Floor, South Tower, Toronto, ON M5G 2C9. Please note that an appointment is recommended for in-person (walk-in) complaints. Office hours are from Monday to Friday, 9 a.m. to 4:30 p.m.