



J. Paul Dubé, Ombudsman

BY E-MAIL

February 13, 2024

Council for the City of Kawartha Lakes
c/o Doug Elmslie, Mayor
26 Francis Street
Lindsay ON K9V 5R8

Dear members of council for the City of Kawartha Lakes:

Re: Closed meeting complaint

My Office received a complaint that the City of Kawartha Lakes' Short Term Rental Licensing Program Task Force ("the Task Force") may have held illegal meetings between April and June 2023, as the Task Force was developing a by-law to licence, regulate, and govern short-term rental accommodations ("the By-Law").

The complaint alleged that three changes to the By-Law were not discussed or agreed upon at open meetings of the Task Force, indicating that they must have been discussed at informal meetings instead. These changes concerned occupancy limits, licensing and inspections, and inspection compliance. Our review of the matter revealed no evidence of an illegal meeting relating to the development of the By-Law having taken place.

Ombudsman's role and authority

As of January 1, 2008, the *Municipal Act, 2001* gives anyone the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public. Municipalities may appoint their own investigator, but the Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own. My Office is the closed meeting investigator for the City of Kawartha Lakes.

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My Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/digest.

The Ontario Ombudsman also has the authority to conduct impartial reviews and investigations of hundreds of public sector bodies. This includes municipalities, local boards, and municipally-controlled corporations, as well as provincial government organizations, publicly funded universities, and school boards. In addition, the Ombudsman has authority to review complaints about the services provided by children's aid societies and residential licensees, and the provision of French language services under the *French Language Services Act*. Read more about the bodies within our jurisdiction here: <https://www.ombudsman.on.ca/have-a-complaint/who-we-oversee>.

Our review

My Office reviewed the meeting documents for all Task Force meetings between April and May 2023, the June 6, 2023 meeting of the Committee of the Whole, and the June 20, 2023 meeting of council. We also reviewed the relevant sections of the *Municipal Act, 2001*, the City's procedure by-law, and the draft and final versions of the City's by-law to licence, regulate and govern short-term rental accommodation. Finally, we spoke with the City Clerk and obtained additional information from the Manager for Municipal Law Enforcement and Licensing ("the Manager").

The complainant identified certain sections of the By-Law pertaining to occupancy limits, licensing and inspections, and inspection compliance that they believed were not discussed in open session, indicating that they were instead discussed during closed meetings.

The Clerk told us that she was not aware of any gathering of the Task Force outside of its formal meetings. With respect to the changes made to the By-Law identified by the complainant, the Clerk and the Manager pointed us to excerpts of Task Force meeting minutes that indicated that these changes were the subject of open session discussions. The Clerk explained that these matters would also typically be circulated to staff for input during a by-law development process.

Conclusion

Under the circumstances, my Office did not identify any evidence that the City of Kawartha Lakes held meetings that contravened the open meeting rules. I thank the City for its co-operation during my review. The Clerk has confirmed that this letter will be included as correspondence at an upcoming council meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Dubé', written over a large, light-colored oval shape.

Paul Dubé
Ombudsman of Ontario

Cc: Cathie Ritchie, Clerk, City of Kawartha Lakes

Cette lettre est aussi disponible en français