

Via Email

Council for the City of Brampton
c/o Clerk Peter Fay
2 Wellington Street West
Brampton, ON L6Y 4R2

May 27, 2021

Dear Council for the City of Brampton:

I am writing in response to the April 23, 2021 resolutions of council for the City of Brampton, which were forwarded to the Ombudsman's Office in a letter dated May 3, 2021. These resolutions were in response to a complaint that was received by the City alleging various misuses of public funds. Council's resolutions provided:

Resolution C130-2021

That Council direct:

1. The engagement of a 3rd Party Investigator, and external counsel as required, subject to consideration by Committee of Council at its April 28 meeting, in regard to the complaint (received April 22, 2021) and the response of the City and staff to determine the validity of such complaint and the response;
2. The City Solicitor and City Clerk execute this agreement for the independent 3rd Party Investigator and external counsel (if necessary), to be ratified by Council, with the terms of reference (including timelines) for the engaged parties reporting directly to City Council.

Resolution C131-2021

That the City Solicitor be directed to forward the complaint to the appropriate police agency for its appropriate consideration.

Resolution C132-2021

That the complaint be forwarded to the Ontario Ombudsman for consideration.

For the reasons detailed below, we have completed our consideration of these matters.

Ombudsman's Role and Authority

The Ombudsman is an independent and impartial Officer of the Ontario Legislature with authority to review and investigate complaints about the administrative conduct of municipalities, universities, school boards, and provincial government organizations. The Ombudsman also has a mandate to review complaints about the services provided by children's aid societies and residential licensees, as well as the provision of French language services under the *French Language Services Act*. Further, we are the default closed meeting investigator under the *Municipal Act*.

Our Office has the discretion to decide whether or not to review or investigate a complaint. That determination is made by considering several factors, including whether there is another adequate remedy available and based on the circumstances of the case. We are a recourse of last resort, which means that individuals are normally expected to first address complaints to existing complaint processes and appeal mechanisms before our Office will intervene.

When the Ombudsman identifies issues with municipal administration, he may make recommendations to a municipality to improve its processes, as well as to strengthen local governance and accountability. The Ombudsman's focus on administrative processes is generally forward-looking and on whether we can make recommendations for positive future change.

Council's request for Ombudsman review

Ombudsman staff spoke to the City Clerk in response to Council's request and reviewed the documentation he provided. We also reviewed relevant meeting recordings and materials from April 22 and May 12, 2021, where council considered this matter.

According to our review, at the May 12 meeting council provided further direction to the Clerk regarding the appointment of a third-party investigator. Specifically, council directed the City Clerk:

to negotiate and execute any agreements and all documents with the one firm engaged by the Clerk to undertake the Council authorized investigation work as per Resolution C130-2021 in regard to the complaint email dated April 22, 2021, including responses, and scope previously directed by Council, on terms acceptable to the City Clerk and in a form acceptable to the City Solicitor or designate;

We understand that this process and the resulting investigation into the April 21 complaint remain ongoing.

As you may be aware, the Ontario Ombudsman routinely encourages municipalities and other public sector organizations to put complaint mechanisms in place so that concerns can be addressed expeditiously and at the lowest level possible. In this case, the City has engaged a third-party investigator and the complaint has also been forwarded to the police. As a recourse of last resort, our Office would typically not review a concern until local complaint mechanisms have been exhausted. In addition, we would usually not review a concern that is subject to police investigation. Given these circumstances, we will not be reviewing this matter further.

Thank you for contacting the Office of the Ontario Ombudsman.

Sincerely,



Robin Bates
Counsel
Ontario Ombudsman