



J. Paul Dubé, Ombudsman

BY EMAIL

July 14, 2025

Council for the City of Mississauga
c/o Mayor Carolyn Parrish
300 City Centre Drive
Mississauga, ON L5B 3C1

Dear Members of Council for the City of Mississauga:

Re: Closed meeting complaints

My Office received a complaint about a closed meeting held by the General Committee of the City of Mississauga (the “Committee”) on October 23, 2024. The complaint alleged that the Committee’s discussions during the closed meeting violated the open meeting rules in the *Municipal Act, 2001* (the “Act”).¹

My review has determined that the Committee did not contravene the Act during its October 23, 2024 meeting.

Ombudsman’s role and authority

As of January 1, 2008, the Act 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. 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 Mississauga.

¹ SO 2001, c 25.

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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/en/info-public-bodies-and-officials/municipal-government/municipal-meeting-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's mandate includes reviewing 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: www.ombudsman.on.ca/en/make-complaint/what-we-can-help-you/organizations-you-can-complain-about.

Review

My Office reviewed the October 23, 2024 meeting materials, including the agenda and minutes. We also reviewed the video recording of the portions of the open session and spoke with the Clerk and the City Solicitor. My Office was advised that the City does not record its closed meeting sessions.

October 23, 2024 meeting

The Committee met in council chambers at 9:30 a.m. on October 23, 2024. After discussing the open session agenda items, the committee resolved to close the meeting at 11:47 a.m. The resolution stated that the committee would hold a closed session pursuant to section 239(2) of the *Municipal Act, 2001*: "Advice that is subject to solicitor-client privilege, including communications necessary for that purpose: New proposed bike lane legislation (verbal update)."

During the closed session, the City Solicitor provided privileged legal advice regarding the new proposed bike lane legislation. The City Solicitor was present for the entirety of the closed session and confirmed that no other topics were discussed.

The committee returned to open session at 12:35 p.m. and passed a resolution to receive the verbal update provided by the City Solicitor during the closed session. The committee adjourned the meeting at 12:37 p.m.

Analysis

The Committee cited the exception for advice that is subject to solicitor-client privilege, including communications necessary for that purpose, when it proceeded *in camera* on October 23, 2024.

The exception for solicitor-client privilege under section 239(2)(f) of the Act applies to discussions between a municipality and its lawyer in seeking or receiving legal advice intended to be confidential.² The purpose of the exception is to ensure that municipal officials can speak freely about legal advice without fear of disclosure. The Supreme Court of Canada has stated that solicitor-client privilege applies when the following conditions are met:

1. There is a communication between a lawyer and a client;
2. Which entails the seeking or giving of legal advice; and
3. Which is considered to be confidential by the parties.³

In the present case, the committee went into closed session to receive a verbal update from the City Solicitor which provided legal advice intended to be confidential. The City Solicitor was present for the entirety of the closed session and no other subject was discussed during that portion of the meeting. The committee's closed session discussions fit within the exception for advice that is subject to solicitor-client privilege.

² *Timmins (City of) (Re)*, 2017 ONOMBUD 4 at para 28, online: <<https://canlii.ca/t/h4rwt>>.

³ *Solosky v The Queen*, [1980] 1 SCR 821 at p 837, online: <<https://canlii.ca/t/1mjtq>>.

Conclusion

The General Committee's discussion in closed session on October 23, 2024 was permitted under the stated exception to the open meeting rules. I would like to thank the City for its co-operation during my review.

The Clerk indicated that this letter would be shared with council and placed on the agenda for the next council meeting, and that a copy will be made available to the public prior to that meeting. At that time, I will also post a copy of this letter on my website at www.ombudsman.on.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Dubé', with a large, stylized initial 'P'.

Paul Dubé
Ombudsman of Ontario

CC: Diana Rusnov, Director, Legislative Services and Clerk, City of Mississauga