

Ombudsman Toronto Report: Enquiry into the City of Toronto's Communication and Enforcement of COVID-19 Rules in City Parks in Spring 2020

Date: July 6, 2021
To: Toronto City Council
From: Susan E. Opler, Ombudsman

SUMMARY

Ombudsman Toronto has concluded an Enquiry reviewing the City's communication and enforcement of COVID-19 rules in City parks in spring 2020.

Pursuant to section 170(2) of the *City of Toronto Act, 2006* (COTA), we hereby table with City Council for its July 14 and 15, 2021 session the Enquiry Report, dated June 30, 2021.

RECOMMENDATIONS

The Ombudsman recommends that City Council adopt the report and in so doing, accept the Ombudsman's findings and direct the City administration to implement all of the recommendations in the report.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

Ombudsman Toronto conducted this Enquiry pursuant to section 171(1) of COTA, which empowers the Ombudsman to investigate any decision, recommendation, act or omission in the course of the administration of the City and most of its agencies and local boards. This function is conferred independently of Toronto City Council and exercised independently of the City administration.

COMMENTS

City leaders and staff went to extraordinary lengths to respond to COVID-19. Spring of 2020 was a very difficult time and we sincerely commend them for their efforts.

Fairness in the delivery of services, however, is concerned with the impact on the people being served, not the effort or good intentions that went into the service delivery.

Ombudsman Toronto's Enquiry, which addressed the time period from April 2, 2020 to May 15, 2020 led to the following findings:

- During the time period we looked at, there was broad public confusion about what people could and could not do in City parks. The City's communication to the public on this subject was not clear and was at times confusing.
- Problems with the City's communication of COVID-19 rules as they applied in City parks during this period included mixing up messages of what was public health advice and what were rules that could result in a ticket, as well as inconsistent and different information in different places.
- In regard to enforcement, there were significant problems in how the City trained and instructed by-law enforcement officers charged with enforcing the rules. The City provided insufficient training and direction on how to properly use discretion and inappropriately relied on a concept of "zero tolerance" as an acceptable enforcement approach.
- MLS by-law enforcement officers have not received adequate training on how to exercise judgment and discretion in a fair and equitable way, raising a concern that MLS's enforcement activities are disproportionately impacting vulnerable populations. This was vividly illustrated by two independent investigations of allegations of racial profiling and differential enforcement involving by-law enforcement officers and Black Torontonians, both of which found racial discrimination.
- There were also problems with how the City informed people about how they could exercise their right to challenge a ticket. Information on the tickets themselves about a 15-day deadline no longer applied and it was hard for people to get information or service from Court Services.

The cumulative impact of these findings was a climate of unfairness, which affected all people in Toronto who did not understand the COVID-19 rules as they applied to City parks between April 2, 2020 and May 15, 2020, especially people who got tickets.

The City administration immediately implemented several recommendations from the Ombudsman last spring:

- The City updated its website to include significantly more and clearer information about the rules for park use, including what people could do in parks and what remained open.
- The City also publicly shared clear information about what was and was not allowed regarding the use of park benches.
- Court Services updated its website to inform the public in clear language that the time limits for disputing a ticket were suspended, how to exercise the options on the back of the ticket, that there would be no in-person services before September 2020, and that the public could now participate in early resolution meetings by telephone.
- Strategic Communications, with help from Legal Services, prepared a 'buck slip' for by-law enforcement officers to hand to people when giving them a ticket. The buck slip contained accurate information on how people could dispute a ticket and told them that the 15-day time limit to request a trial was extended while the provincial Emergency Orders remained in effect.

The report contains 14 further recommendations, which include:

- Creating an organization-wide policy to ensure communication to the public about changes to City services and facilities is timely, accurate, coordinated and accessible
- Developing processes to address public complaints about City communications in a timely and effective way
- Immediately making public anonymized summaries of the findings and systemic recommendations of two independent investigations into allegations of racial profiling and discrimination by by-law enforcement officers, as well as the steps the City has taken, and will be taking, to implement those recommendations, to promote transparency and public confidence
- MLS immediately sending clear and direct communications to all staff that "zero tolerance" is an unacceptable, unclear and unfair approach to enforcement
- MLS creating a policy and training materials for by-law enforcement officers on how to exercise judgment and discretion in a fair and equitable way
- MLS developing a plan to hear directly from community organizations, particularly organizations serving vulnerable and marginalized people, and ensure that feedback from Toronto's communities informs the training and operations of MLS's enforcement activities

- MLS developing an anti-racism strategy to eliminate racial profiling from by-law enforcement
- MLS exploring the adoption of a race-based data collection strategy to help identify inequalities in its enforcement activities

The City administration supports and accepts the Ombudsman's recommendations and has undertaken to implement all of them.

CONTACT

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SIGNATURE

(Original signed)

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ATTACHMENTS

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