

Ombudsman Toronto's review of the issues raised in a Member Motion concerning community gardens and the Toronto Community Housing Corporation (TCHC)

Date: July 17, 2024

To: City Council

From: Kwame Addo, Ombudsman

SUMMARY

Pursuant to section 170(2) of the *City of Toronto Act, 2006 (COTA)*, the purpose of this report is to brief City Council on the Ombudsman's review of the issues raised in a Member Motion concerning community gardens and TCHC.

RECOMMENDATIONS

The Ombudsman recommends:

1. City Council receive this report for information.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

On May 10, 11, and 12, 2023, City Council adopted [MM6.36 – Requesting Accountability for the Destruction of the Community Garden at 133 Broadway Avenue](#) (the "Motion").

City Council requested that I:

Investigate the destruction of the garden at 133 Broadway Avenue by TCHC; and

Provide recommendations that empower residents' creative animation of public and private space by encouraging City staff to exercise discretion when enforcing regulations that support a collaborative and respectful approach with Torontonians.

A copy of the Motion was forwarded to my office by the City Clerk on June 26, 2023.

COMMENTS

Ombudsman Review

Following the Motion, I contacted TCHC and affected parties concerning the garden at 133 Broadway Avenue, as well as community gardens at TCHC more broadly.

The Destruction of the Garden at 133 Broadway Avenue

During the course of my office's review, we learned that the destruction of the garden at 133 Broadway Avenue was the subject of ongoing litigation.

Under the *City of Toronto Act*, 2006, S.O. 2006, Ombudsman Toronto is barred from investigating matters actively before any court:

Decisions not reviewable

171 (4) Nothing in this Part empowers the Ombudsman to investigate any decision, recommendation, act or omission,

(a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired;

Therefore, while the litigation remained ongoing, Ombudsman Toronto did not have jurisdiction and could not launch a formal investigation. I did, however, monitor the status and progress of these proceedings throughout the year.

On June 25, 2024, I was informed that the litigation was resolved to the parties' satisfaction, on strictly confidential terms.

Recommendations that Empower Residents' Creative Animation of Public and Private Space

As part of my office's review of community gardens more broadly, we spoke to TCHC staff about TCHC's current practices for community gardens. We also reviewed relevant documentation provided by TCHC, including, but not limited to, correspondence, reports, policies, procedures, strategies, manuals and other guidance.

At the time of my initial inquiries, TCHC did not have a unified approach to community gardens, or a clear mechanism allowing tenants to initiate community gardens. Tenants, however, did utilize public and private spaces on TCHC properties through various means, including resident gardening clubs.

TCHC advised my office that it would undertake an internal systemic review of its community gardening processes.

In keeping with Ombudsman Toronto's role as an office of last resort, my office has been monitoring the progress of TCHC's internal review and receiving regular updates. I have not made recommendations to TCHC at this time to provide TCHC an opportunity to create policies and processes that potentially will address City Council's desire that residents be empowered to creatively animate public and private space at TCHC.

Status of TCHC's Review of its Community Gardening Processes, and Next Steps

TCHC advised my office that in May 2024, the TCHC Executive Leadership team approved an Interim Policy and Interim Procedure for Tenant Community Gardens for the 2024 growing season. As of July 15, 2024, TCHC has posted the Interim Policy on its website. The Interim Policy and Interim Procedure provide guidance on the creation of community garden spaces on TCHC property and a process by which individual tenants and/or tenant groups can enter into Community Gardening Agreements with TCHC.

TCHC informed my office that it is working towards a long-term, formal policy and procedure as part of its internal review, which may include updates to its existing Non-Residential Use of Space Policy for Tenants and Tenant-Led Groups and Non-Exclusive Use of Space Procedures for Tenants and Tenant-Led Groups. TCHC expects to complete its final policy and procedure on this issue by Spring 2025.

My office and I will continue to monitor TCHC's progress until it completes its internal review and implements a final policy and procedure on community gardens.

Conclusion

TCHC is currently undertaking an internal review of its community garden practices. Ombudsman Toronto is monitoring this review. Once the review is completed, we will assess whether additional recommendations are necessary.

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Thank you for allowing me to provide this update to City Council.

CONTACT

Kwame Addo
Ombudsman
Tel: 416-392-7061
Email: kwame.addo@toronto.ca

SIGNATURE



Kwame Addo
Ombudsman
