

# The Regional Municipality of York

Committee of the Whole  
Finance and Administration  
September 10, 2020

Report of the Commissioner of Corporate Services and Regional Clerk

## Provision of Closed Meeting Investigation Services

### 1. Recommendations

1. That as of January 1, 2021, the Ontario Ombudsman provide closed meeting investigator services for York Region.
2. That notification be provided to Local Authority Services Ltd. (“LAS”) and the Ontario Ombudsman of this decision.

### 2. Summary

On [December 17, 2019](#), a memorandum was brought forward notifying Council of the cost increase for closed meeting investigator services. At that time it was identified that the Region would maintain its current investigator for 2020, but staff would report back on the provision of these services for 2021 and beyond.

Key Points:

- To date, the Region has never been investigated for improperly holding a closed meeting
- Since 2007, Local Authority Services Limited (LAS) has acted as the Region’s closed meeting investigator
- Due to changes in the LAS service provider, hourly investigation fees have increased
- If a municipality does not appoint its own closed meeting investigator, the Ontario Ombudsman would fill this role at no cost

### 3. Background

#### **The *Municipal Act, 2001* requires all municipalities to have a closed meeting investigator**

Since 2007, all municipalities are required to have an investigator who would act on complaints that a municipality improperly closed a meeting to the public. Municipalities may appoint their own investigator otherwise the service is provided by the Ontario Ombudsman.

## **Since 2007 the Region has used LAS as its closed meeting investigator**

On [December 13, 2007](#), Council passed Bylaw A-0396-2007-094 to appoint LAS as its closed meeting investigator. LAS is a not-for-profit organization created by the Association of Municipalities of Ontario (AMO) that provides a number of municipal services. When the legislation was first enacted, it was identified that a majority of municipalities would be participating in the AMO program.

## **In 2019, LAS provided notice that its investigator fees have increased**

LAS previously used Amberley Gavel to provide investigation services. An annual retainer of \$330 was paid for this service and a \$375 per hour cost related to the actual investigation. To date, the Region has never been investigated.

On December 3, 2019, following a competitive process, LAS advised that Aird & Berlis LLP would provide investigator services. Although the annual retainer was reduced, hourly investigation costs could be doubled.

## **4. Analysis**

### **The Ontario Ombudsman is the closed meeting investigator for a number of local municipalities**

As shown in Table 1, there is no consistency in closed meeting investigators with almost half of the local municipalities using the Ontario Ombudsman. Aurora's Integrity Commissioner also acts as their closed meeting investigator. Richmond Hill recently switched to the Ontario Ombudsman due to LAS changing their service provider.

**Table 1**  
**Closed Meeting Investigator by Municipality**

<b>Municipality</b>	<b>Closed Meeting Investigator</b>
Town of Aurora	Principles Integrity
Town of East Gwillimbury	LAS
Town of Georgina	Ontario Ombudsman
Township of King	Ontario Ombudsman
City of Markham	LAS
Town of Newmarket	Ontario Ombudsman
City of Richmond Hill	Ontario Ombudsman

Municipality	Closed Meeting Investigator
City of Vaughan	LAS
Town of Whitchurch-Stouffville	LAS

## **The Ontario Ombudsman has experience acting as a municipal closed meeting investigator**

The Ontario Ombudsman is the closed meeting investigator for 226 of 444 municipalities in Ontario (51%). Over the past four years, the Ontario Ombudsman has conducted approximately 300 closed meeting investigations.

Ombudsman's decisions have generally informed the approach to and understanding of the closed meeting rules as set out in the *Municipal Act* and are routinely used as informative references by independent closed meeting investigators.

## **5. Financial**

### **Switching to the Ontario Ombudsman would represent a cost savings for the Region**

To date, the Region has paid \$3,771.40 to LAS for closed meeting investigation services. While the change in service providers resulted in a decrease in the annual retainer that would be paid by the Region, hourly investigation costs now ranges from \$375 to \$750 per hour.

Not renewing the Closed Meeting Investigation Services Agreement with LAS will prevent the Region from incurring any potential future expenses related to any closed meeting investigations.

In 2008, the Region set a complaint investigation fee of \$125, which would be removed from the associated fee schedule if Council decided to switch to the Ontario Ombudsman.

## **6. Local Impact**

There would be no impact on the local municipalities if the Region changes its closed meeting investigator.

## **7. Conclusion**

Every municipality is required to have a closed meeting investigator to investigate compliance with the open meeting rules in Section 239 of the *Municipal Act*. The Ontario Ombudsman can provide this service if a municipality chooses not to appoint its own investigator. The Region has used LAS as its closed meeting investigator since 2007 but

LAS announced investigatory cost increases in 2019. Council can continue to use LAS or switch to the Ontario Ombudsman.

The Ontario Ombudsman is the closed meeting investigator for over half of the municipalities in the province and has an established approach to conducting these kinds of investigations.

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For more information on this report, please contact Christopher Raynor, Regional Clerk at 1-877-464-9675 ext. 71300. Accessible formats or communication supports are available upon request.

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# 11235661