



# 2005 OMBUDSMAN REPORT

AUDITOR'S OFFICE, CITY OF PORTLAND, OREGON

Issued: July 2006



Photo: Steve Bonini

**2005** marks the Office of the Ombudsman entering its fifth year as a statutory office under the elected Auditor, Gary Blackmer. With the City Council's passage of Ordinance 175568 effective July 1, 2001, we now have had the opportunity to establish constructive working relationships with City agencies and have become more accessible to the public. The purpose of our office continues to be to help ensure that all members of the community have an avenue for their grievances about City government to be heard. Our office must be respectful of an individual's interests regardless of whether our opinions may differ.

I would like to thank Auditor Gary Blackmer for his leadership and support of our office. Auditor Blackmer institutionalized the ombudsman concept initiated by former Mayor Vera Katz. He recognized the importance of City government having an independent ombudsman on a permanent basis to assist the public with complaints and concerns about City agencies in order to safeguard the rights of the people and promote higher standards of competency and accountability in the provision of City services. I would also like to thank all members of the City Council for their support of our office. They have recognized that both our resolution of complaints, and the recommendations we have made, serve to improve citizens' experiences with government.

In 2005, we saw a change in types of complaints received, with the number of Jurisdictional complaints dipping and the number of Informational complaints increasing. This reflects in part more effective working relationships with City Bureaus, where they are able to produce better resolutions to complaints that we have referred and monitor.

Non-jurisdictional complaints continue to increase, 22% from the prior year and three-fold from our first full year, reflecting the greater difficulty the public is having in knowing where to go to seek assistance. When a complaint is determined to be non-jurisdictional, our office strives to refer the individual to the appropriate agency. Often this involves staff conducting research, but we believe this higher level of customer service is important to maintain.

While numbers are not the primary indicators of workload demands given the variation in types of complaints, they are none-the-less one of the few quantifiable measurements used to judge performance. We continue to operate at similar levels of contacts with two-thirds of the staffing level of several years ago. Another performance measure, shown in the graphs on page 5, is the overall satisfaction with our services, satisfied and very satisfied has reached 84%, an all time high.

With increasing overhead costs and diminishing resources, the City not only has to struggle with accomplishing more with less, but it must also contend with a trend of diminishing trust in government. While this is not uniquely symptomatic to Portland, it is something we must address. We need to re-engage the public and prove that government is run efficiently, effectively and fairly. The Office of the Ombudsman is one piece of Portland's accountability system and, working collaboratively, we will be able to improve trust in government and foster greater civic engagement.

*Michael Mills, Ombudsman*

## Inside

Case Summaries.....	2-5
Customer Service Team .....	4
Dumpster Resolution .....	8
Elders in Action Resource.....	6
Information Technologies Recommendation .....	7
Mission Statement.....	4
Ombudsman Contact Information .....	8
Recognizing Outstanding Service.....	6
Resolutions Northwest Mediation Resource .....	6
Satisfaction Survey .....	5
Special Thanks to Interns.....	8
Water and Sewer Billing Appeals .....	8

## Purpose of Report

The Office of the Ombudsman investigates complaints about City government, develops recommendations to improve public service and provides another voice for the public interest. As a result, City procedures become more transparent, the City is more accountable for its actions and responsive to potential improvements. We have an obligation to be accessible and to let the public know the types of issues we have addressed on their behalf. One way to accomplish these objectives is this Annual Report. The Annual Report is required (PCC 3.77.170) in order to advise the Auditor and City Council of the Office's activities and some of the concerns raised. It also serves as a management tool for improving public services and helps evaluate our performance.

## A Word from the Auditor

Gary Blackmer, Portland City Auditor

**A**ccountability means that citizens should be able to obtain an account of what has happened. Public accountability comes in various forms, and the Portland Auditor's Office offers many more dimensions of accountability than other governments. Our services range from access to public records, to impartial hearings of citizen appeals, to performance audits.

The Office of the Ombudsman addresses one of the most challenging aspects of accountability: reviewing the "fairness" of a decision made by Portland bureaus. Michael Mills and Kristen Erbes bring a sincere professionalism to that endeavor. And this annual report describes their services to the public: with the same purpose of accountability.

An ombudsman must also be accountable and Portland citizens should know that new national professional standards have been enacted by the United States Ombudsman Association, with representation from Portland on the committee. Kristen's predecessor, Becky

Chiao, served on the committee that developed the national standards, holding offices accountable for providing quality ombudsman services.

Similarly, auditing standards were developed by the Government Accountability Office (GAO) which are followed by the Audit Services Division of my office. These standards have traditionally focused on efficiency and effectiveness, but the GAO has proposed a new revision that introduces a third "e" -- equitable treatment. Auditors are beginning to see the importance of addressing matters of fairness in the course of their work.

Auditors in this country can learn from the long tradition of ombudsman offices in the world and I believe they can learn from Portland's example, where collaboration between auditors and ombudsman staff is improving accountability, and the quality of City services. I am proud to be contributing to this important mission.

# OMBUDSMAN HANDLES A VARIETY OF CASES IN 2005

## Signs by City Hall Elevator

A disabled advocate visited the Office of the Ombudsman and asked why the City had not placed signs by elevators at City facilities explaining evacuation procedures for disabled people (employees and visitors) who are unable to use stairways in the event of an emergency. It was the citizen's understanding that this is an Americans with Disabilities Act (ADA) requirement.

The Office of the Ombudsman looked into the issue. It was discovered this type of signage is not required by ADA. However, what is required is that the City's fire and life safety plans are to address the issue of what to do when people with limitations cannot use the stairs in an emergency.

An Office of the Ombudsman's intern, Ian Canino, informally surveyed floor wardens in both City Hall and the Portland Building in the summer of 2005. He asked what provisions the floor wardens had made for evacuating disabled visitors and employees in the event of an emergency. The survey results indicated there was inconsistency among work areas ranging from being fully prepared to a lack of preparedness in accordance with prescribed plans. This provided some evidence of the need for frequent training for floor wardens, and for floor wardens to review procedures with their fellow employees, to help ensure the system of communication is functioning efficiently for the evacuation of disabled visitors and employees.

Paul Wallman, Bureau of General Services (BGS) Facilities Fire Life Safety Director, responded with his appreciation for the informal survey. He also reported that after a fire drill at City Hall he held a post fire drill meeting with the floor wardens and took the opportunity to restate their roles when it comes to disabled persons. He referred them back to the plan and the steps necessary in aiding the disabled. Paul said he has been impressed with the level of awareness the floor wardens have of their fire life safety plan. Paul also reported that as he conducts future training, he will use the Office of the Ombudsman's assessment survey as a tool to educate floor wardens in helping disabled people in the event of an emergency.

New signage was added at each elevator that designates an area of refuge adjacent to the stairs for anyone unable to use stairs in an emergency evacuation. The Office of the Ombudsman was pleased with the new signage next to the elevators in City Hall.



Louis Hall visited City Hall to view the new signage next to the elevators

## Water Meter Misread

We received a complaint regarding a water and sewer account. The complainant explained that her water utility bill increased significantly shortly after her water meter was exchanged at the end of 2004. The complainant stated that a City customer service representative told her the cause of the high bill was most likely a leak somewhere on the property and it was not a City error. Based on this information, the complainant hired a leak detection company who did find a leak. However, the water loss caused by the leak was not significant enough to increase the usage to that which was reflected on the billing statement. The City later issued a corrected statement after confirming the previous meter read was incorrect.

The complainant said she had two issues. The first was she believed the corrected water and sewer bill was still not correct. She said the bill was calculated on a higher estimated consumption than it should have been. Second, she requested the City compensate her for the \$200 she spent on the leak detection company since the City originally misread the meter.

The Office of the Ombudsman opened an investigation and worked with a member of the Utilities Customer Services (UCS) Advanced Solution Team. The request to reimburse the cost of the leak detection service was initially denied because a toilet leak had been discovered.

The complainant meticulously examined all of the billing statements she received, wanting to make sure there was an accurate accounting. At one point she even pointed out where she thought she was under-billed. It was clear she wanted to pay for what services she received, not more or less. The complainant examined the affected billing statements with the UCS representative and agreed the corrected statement was accurate.

The complainant appreciated the thorough review and paid the balance immediately. However, the complainant said she would pursue the leak detection reimbursement with Risk Management and/or Small Claims Court given the expense was a result of a City error.

The Office of the Ombudsman staff urged UCS to consider the leak inspection reimbursement one final time saying in part, "If the toilet leak by itself was not enough to cause a serious spike in the bill, I am sure the complainant would have paid the bill promptly. I think that things were compounded by the Bureau insisting that it was a customer problem and then the billing errors that followed. If it is decided not to honor the complainant's request, she said she will pursue her claim through other channels." After a final review of the case, Utilities Customer Services did credit the complainant's account the amount of the cost for the leak detection service.

## Parking Near Mailboxes

The Office of the Ombudsman was contacted regarding a question about the City Code regulations governing parking in the right-of-way near mailboxes. The complainant reported he found a note left on his car threatening to have it towed and issued a subsequent fine for violating regulations for parking near a mailbox in Northeast Portland. The complainant said that there was not any signage or a yellow curb designating a no parking zone at the location. The complainant said it was a gray multi-box delivery mailbox across the sidewalk, not a curbside mailbox or one that could be filled from a postal vehicle at the curb.

The Office of the Ombudsman investigated and learned there is a provision to allow room on the street, free from parking, for mail delivery vehicles. The Postal Service can call the City and

ask that a car in violation of Portland City Code 16.20.130 E be ticketed for \$25. That code states it is unlawful to park or stop a vehicle "in front of



Mailbox raises questions

and 10 feet on either side of a rural (vehicle) delivery mail box between 8 a.m. and 6 p.m., except Sundays and official postal holidays." They call sidewalk or curb side boxes "rural-type" mailboxes. If the vehicle remains, the next day it can be given another \$25 ticket, then towed, along with expensive towing charges. (See: PCC 16.20.220 C) The Office of the Ombudsman confirmed the request to move the car was legitimate.

## Neighbors Struggle with Livability Issues

The Office of the Ombudsman had been the recipient of complaints regarding an addiction recovery club for over a year. In July, 2005, a senior planner at the Bureau of Development Services (BDS) informed the Office of the Ombudsman that, due to an error in a 2003 land use case regarding the club, there were no conditions of approval that limited hours of operation for the club. The BDS planner explained there were many conversations about how to resolve the lack of conditions of approval. Ultimately, the City decided to resolve the issue through a stipulated agreement, which the City can enforce to deal with the club's hours of operations. The planner explained that the stipulated agreement only provides hours of operations and does not allow the club to violate other City codes.

We responded to BDS that the stipulated agreement, between the City and the club, allows operations until 11 p.m. on Friday and Saturday nights. We expressed disappointment that the stipulated agreement did not factor in potential noise issues prior to setting hours of operation since Title 18, Noise Control, provides that night hours begin at 10:00 p.m. Based on

*(continued on page 3)*

that, and the fact that complaints were continuing, we believed granting any permanent noise variance would undermine efforts to address the ongoing complaints. We felt the City needed to recognize the necessity to balance between the needs of the club and the needs of the neighboring residents.

At about the same time, the Office of Neighborhood Involvement's (ONI) Crime Prevention Officer in the area, Celeste Carey began working with those involved to convene a meeting between the club and neighbors to address the complaints. Ms. Carey also called on the assistance of Judith Mowry, Director of Mediation Services at Resolutions Northwest (RNW), a nonprofit mediation provider.

Through several months of meetings and negotiations, a collaborative good neighbor agreement was negotiated. There was even a signing ceremony complete with sparkling cranberry juice to recognize the contributions of everyone involved. Although the Office of the Ombudsman was not involved in the collaborative process, we were happy ONI and RNW could assist the parties to reach resolution.

### City Council Gives Impounding Practice the Boot!

A complainant called the Office of the Ombudsman in May 2005 because he had been parked in a private parking lot and his car was "booted" or impounded in the parking lot. When the complainant returned to his car he was told he had to pay the company a fee of \$175 to release his car because he was parked illegally. The complainant said the company was charging different rates to people in the parking lot (apparently negotiable depending on looks and age of the vehicle owner and a visual assessment of their ability to pay) and wanted to know about the legality of this practice.

The Office of the Ombudsman learned that the City Code at that time was silent on the practice of booting or vehicle clamping so it was not an illegal practice. Both the Bureau of Licenses, which regulates towing practices, and Commissioner Leonard's staff, then worked on amending Portland City Code Section 7.24.020.

A provision was added that states it is prohibited to, "Attach a mechanical boot or any other immobilization device to any vehicle parked on private property or public right-of-way for the purpose of collecting a fee for the release of the vehicle." This was adopted by City Council in December 2005 so it is now illegal to boot vehicles in the City of Portland.

Note: In September 2005 City Council established the Revenue Bureau in the Office of Management and Finance. The Bureau of Licenses was transferred to the Revenue Bureau.

### Rats!

The Office of the Ombudsman received a call from a commercial building owner in Northeast Portland regarding rat infestation. The complainant described the rat problem in the area was so bad that one of his business tenants had to close temporarily due in part to broken water lines.



Culprit caught on video of sewer line

The complainant reported that he hired a private pest control service on a monthly basis. But the pest control services said they could not end the rodent problems inside the buildings due to the infestation on public property, particularly the sewers. The complainant tried to work with Multnomah County, but had been unsuccessful.

The City's Bureau of Environmental Services (BES) acknowledged that sewer systems everywhere face issues with rats. However, they said that rats typically do not make their way to the surface unless there is a hole somewhere in the system (public or private). BES asked the City's Bureau of Maintenance (BOM) to inspect the lines in this area with a camera. BES reviewed the tape and confirmed they found at least one rat in the system and three locations that required spot repairs due to holes in the laterals. BES requested rat abatement be conducted prior to the repairs. The repairs occurred after the rat abatement was completed.

### Human Resources Creates New Policy After Employee Complaint

A City of Portland employee (complainant) applied for another City job. After not hearing anything about the application, the complainant contacted the Bureau of Human Resources (BHR). The complainant was told by BHR personnel that the application had been withdrawn. The complainant had not withdrawn the application and explained that it was a mistake.

To correct the matter, BHR sent the application to the Review Committee which had previously ranked the applications from the recruitment. The field of applicants had already been narrowed to two candidates by this time.

The Review Committee did not rank the application high enough for it to be considered further.

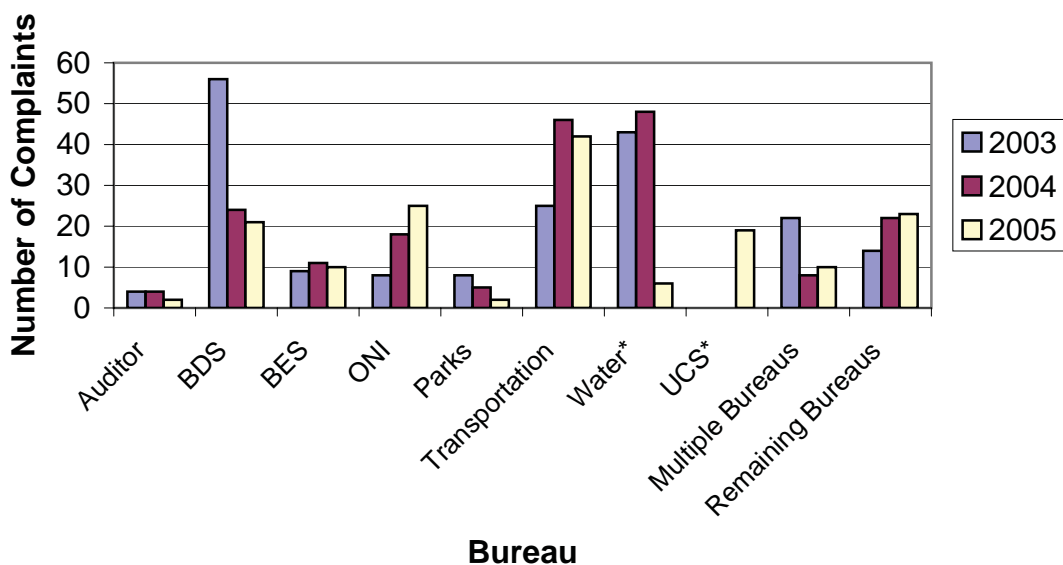
The complainant contacted the Office of the Ombudsman after not receiving a response from BHR staff regarding their review of how the initial removal of the application from consideration occurred. Office of the Ombudsman staff met with BHR staff and learned that the applicant met the minimum qualifications but at some point before the applications were sent to the external raters, the application was considered withdrawn because "withdrew from process" was written on a screening sheet. The BHR internal review did not reveal who wrote that on the application. By the time the mistake was discovered, the selection process had already narrowed the candidates to a short list.

In meetings with BHR staff, all staff we spoke with indicated they felt strongly that it was an internal error and that it was virtually impossible that someone from the outside had access to the file. As a result of this investigation, a new procedure was developed by BHR that now requires the candidate to submit her/his withdrawal in writing. Without a written statement from the applicant, the application will not be withdrawn from the review process.

Because the complainant feared reprisal, the Office of the Ombudsman recommended that the complainant should have been consulted before forwarding the application to the

(continued on page 4)

Jurisdictional Complaints 2003-2005



\* In 2005 Utilities Customer Services (UCS) was moved out of the Water Bureau. This Chart reflects that new organizational structure.

Acronyms: Bureau of Development Services (BDS), Bureau of Environmental Services (BES), Office of Neighborhood Involvement (ONI)

### JURISDICTIONAL COMPLAINTS

A complaint is classified as "Jurisdictional" if it falls within the definitions of the Office of the Ombudsman's jurisdiction. Portland City Code authorizes the Office of the Ombudsman to investigate the "administrative acts" of City "agencies." An administrative act is defined as "an action, failure to act, omission, decision, recommendation, practice, policy or procedure." An agent or agency is defined as "any bureau, office, institution, corporation, authority, board, commission, committee of the city and any officer, employee, or member of the foregoing entities acting or purporting to act in the exercise of their official duties, EXCEPTING: elected officials and their personal staff." PCC 3.77.020.

A jurisdictional complaint can be handled in one of several ways depending upon the amount of investigation done, resolution obtained or whether a finding of fault/no fault can be made. A complaint can be referred, declined, assistance can be provided, and it can be discontinued or investigated.

review committee after a short list had already been developed. The Office of the Ombudsman also recommended keeping documentation of internal reviews so that BHR could explain to an employee that a thorough investigation was done. In addition, this Office recommended BHR send a formal, written apology to the applicant to acknowledge the situation and assure the applicant that BHR regretted the occurrence, the matter was taken seriously and that new procedures have been put in place to prevent this from happening in the future and assure the applicant that there would not be any bias in future hiring processes by BHR staff as a result of bringing this complaint forward.

### Recycling Construction Debris Challenges Compliance Agencies

The Office of the Ombudsman received a complaint in February 2005 regarding the operations of a construction debris recycling facility and the negative impacts resulting to the complainant's property. The complainant had been speaking with and writing to City officials for nearly 5 months without having received a definitive answer with respect to the impact and compliance concerns.

While the METRO regional government issues permits for such recycling facilities, the operator must comply with City Codes. The Bureau of Development Services (BDS), The Bureau of Environmental Services (BES) and the Office of Neighborhood Involvement (ONI) have compliance interests. The concerns were based on the operations not being required to provide an on-sight storm drainage system and dust control measures. Photographs indicated debris and run-off from recycling wastes flowing or being tracked into the street and street catch basin, and possibly onto adjoining property. There was also a complaint that steel fragments were being ejected from the wood products grinder several hundred feet onto neighboring property and the highway.

The Ombudsman visited the property adjacent to the recycling company and climbed onto the roof where he found numerous pieces of steel fragments and nails that had flown over 100 feet from the recycling grinder. Some of these pieces weighed up to one half pound each, with a few even heavier, and posed a risk for serious damage or injury to those on the neighboring property or to traffic on the adjacent highway.



Flying steel debris

This Office asked the City Bureaus to encourage Metro to take enforcement action to ensure conditions were met and safety restored. City officials did contact Metro. By mid-May, Metro wrote to the operator notifying them of violations (airborne debris, operating plan,

copies of enforcement actions provided to Metro, right of inspection). Metro included instructions for how to "cure violations."

Additional evidence indicated more steel fragments were landing on the neighboring property and that the grinding operations were continuing. The complainant collected pieces weighing up to 2 pounds and having been thrown some 300 feet. Another property owner expressed concerns about the evening noise from the site.

Metro's Principal Solid Waste Planner provided the operator with comments intended to assist them in making the changes necessary to produce an updated operating plan that could be approved by Metro. BDS also worked with Metro to help achieve compliance. BES's Environmental Compliance Manager also wrote to Metro to address compliance concerns involving drainage from the site. By late May, the operator purchased a horizontal grinder to resolve the flying debris problem.

Over the following months, operating conditions at the site gradually improved. This

Office found that the three City Bureaus with specific areas of interest did act responsibly in addressing the City regulatory concerns with Metro so they would be acted on by Metro under their permitting authority.

### Mission Statement

To receive complaints, conduct independent, impartial investigations of the administrative acts of City agencies and recommend appropriate changes to safeguard the rights of persons and promote higher standards of competency, efficiency and justice in the provision of City services.

## OMBUDSMAN CO-LEADS EFFORT TO IMPROVE CITY CUSTOMER SERVICE

Ombudsman Michael Mills together with Bonnie Morris of the Bureau of Development Services and Carol Stahlke of the Water Bureau and who is also a representative of the American Federation of State, County and Municipal Employees, recently lead the City's Bureau Innovation Project (BIP) Team 7 on Customer Service. The BIP Process was created by Mayor Potter to move forward with implementing the Mayor's goals of increasing the cultural awareness and diversity of the City workforce, fostering greater inter-bureau collaboration, enhancing customer service and making management more efficient. One of approximately 20 teams developed, Team 7's focus was on improving customer service to both external and internal customers of the City. Team membership included representatives from some 14 City agencies and two unions.

Team 7 began meeting in June 2005. Their efforts included researching and discussing other customer service improvement efforts, including measurement tools and cus-

tomers surveys. The Team surveyed City of Portland bureaus about their current customer service practices, training and evaluations. In January 2006 Team 7 made their initial report to the City Council/Bureau Directors' Implementation Team. After getting feedback, the Team continued to develop their recommendations. On May 4, 2006, Michael Mills and Bonnie Morris presented their final recommendations to the Implementation Team. Recommendations include creating a Customer Service Advisory Committee which will be staffed with a part-time position in the Auditor's Office. In addition, Team 7 also proposed a draft of Customer Expectations (see below). This effort to improve customer service will continue in the next fiscal year. If you are interested in learning more about this effort, please go to the Mayor's website at <http://www.portlandonline.com/mayor/> and click on the Bureau Innovation Project Link under the "Quick Links" section on the left side of the page or contact Ombudsman Michael Mills.

### City of Portland Customer Expectations

As customers of the City of Portland, we expect:

1. Courteous and respectful treatment at all times.
2. To be listened to and heard by staff.
3. Timely service when seeking assistance by phone, e-mail, in person or any other means of communication.
4. Services to be accessible during reasonable business hours.
5. Reliable, complete, and up-to-date information from knowledgeable, competent and cooperative staff.
6. Appropriate explanations as to the extents and limits of the services provided.
7. Processes that are openly and clearly articulated, and that are predictable, logical, streamlined, fair and legal.
8. Actions, which are both fair and ethical.
9. A commitment to the continuous improvement of services, processes, and programs and that comments and suggestions are encouraged from us to facilitate this endeavor.
10. Personalized, solution-oriented communications, which offer options to resolving issues.
11. Support in solving problems we may encounter with City processes.
12. An adequate level of staff that is cross-trained during all business hours to meet our needs.
13. Clearly defined avenues for resolving disputes or service delivery issues.



Heritage Tree that has a broad reach over a property line

## Tree Protection and Property Owner Notice

The Office of the Ombudsman discovered that the process for designating a Heritage Tree did not contain a provision for notification to adjacent property owners directly impacted by the designation. Since such a designation strictly limits cutting or pruning, this Office recommended that the City provide notification to those adjacent property owners who are directly impacted; only those properties beneath the canopy (limbs and branches) of the tree. As has been the case, the property owner of the tree consents to the designation. The notification would not be cause to revisit any past decisions, nor to grant any property owner veto rights over a future designation.

The recommendation was presented to the Forestry Division of the Parks and Recreation Bureau who were receptive to the idea. The Division asked the Ombudsman to appear before the Urban Forestry Commission to discuss the subject. The Ombudsman presented the recommendation to the Forestry Commission and the leadership of the Heritage Tree Committee. While several members suggested more time for consideration, the majority voted to consider the recommendation no further. The Ombudsman then forwarded his recommendation to the Commissioner's Office where a decision was made, with the Ombudsman's concurrence, to accept the recommendation and implement courtesy notification on a "Pilot" basis after considering the concerns raised by the Heritage Tree Committee.

As a result of the recommendation for courtesy notification on a pilot basis being accepted, several members of the Committee resigned, citing their belief that notification would harm the program and the trees it was designed to protect.

## Ombudsman Hosts Mediation Gatherings

The Office of the Ombudsman hosted the Oregon Mediation Association's (OMA) salons at City Hall in 2005. The salons are gatherings open to the public on a wide variety of dispute resolution topics. We will continue to host these salons beginning in September 2006 thru June 2007. If you are interested in learning more about OMA or the salons (including scheduled topics) please contact OMA at 503-872-9775 or [www.mediate.com/oma](http://www.mediate.com/oma)

## HOW WE'RE DOING

THE PUBLIC RESPONDS TO OUR SATISFACTION SURVEY

The Office of the Ombudsman sent 127 postcard surveys and received 46 responses. The survey asks complainants who have used the office to evaluate the services they received. The survey also solicits suggestions from users about changes that might improve the office. The response rate is typical for this questionnaire. The pie charts to the right summarize the responses received.

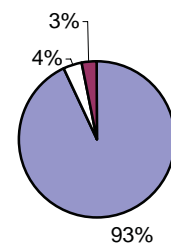
The results from the 2005 survey show increased satisfaction for all questions. In fact, the 2005 levels represent the highest levels of satisfaction in the four years the questions have been asked. (In 2001, when the office started, a similar survey was conducted but different questions were used.) Two of the questions, #5 (Did staff respond in a timely manner?) and #6 (How would you rate the service you received?) are also used as performance measures in our budget process. The goal for both of those performance measures was 80%. 2005 results indicated that 86% of respondents were satisfied with the timeliness of our response and 84% were satisfied with the services they received. Both of these exceeded the goals set in the performance measures.

Although we are proud of this year's figures, we know what is most important is that we are developing a baseline by which to measure responses. We are continuing to work to increase the response rate by sending out the surveys closer to when the case closes. In the past, the surveys had been sent out at the end of the year, but that meant that some complainants did not receive a satisfaction survey until well after their complaint had closed.

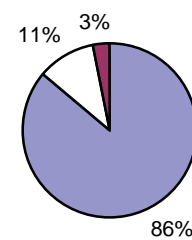
We also look closely at cards where respondents indicate they are dissatisfied with the services they received. Of the cards that indicated dissatisfaction with our services, the two most prevalent comments were that a) they felt the Office of the Ombudsman took the City's side, and b) they were dissatisfied because the Office of the Ombudsman could not require the City to take action. In instances where contact information is provided with the response, we will follow up to see how we might provide further assistance. However because the majority of surveys are anonymous, we cannot contact the complainants to learn more. Nevertheless, this feedback reminds us how important it is to educate complainants about our role, function and powers when they initially call.

Thanks to everyone who completed the Satisfaction Survey. We welcome constructive feedback on how we can improve our services – from users, bureau staff and all members of the public. If you have a question, concern, or idea about how we can improve our services, please contact us!

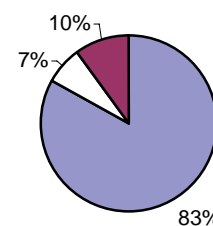
Did staff listen carefully to your complaint?



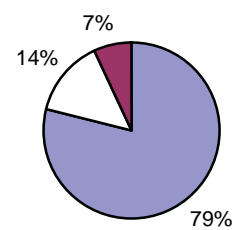
Did staff evaluate your complaint fairly?



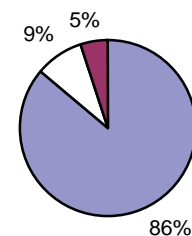
Did staff provide helpful assistance?



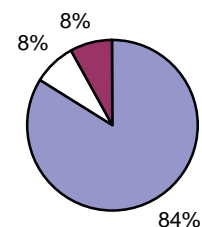
Did staff display suitable knowledge of issues?



Did staff respond in a timely manner?



How would you rate the service you received?



■ Satisfied □ Neither ■ Dissatisfied

*Citizens need to have an impartial department at City Hall who can assist when other avenues are deadlocked or are unhelpful.*

~Comment from 2005 satisfaction survey

## OMBUDSMAN OFFICE REFERS CITIZENS TO TWO NONPROFIT AGENCIES

### When the City Cannot Help, Mediation Might!

**A**bandoned Autos enforcement officers responded to a complaint in a neighborhood regarding a possible abandoned vehicle. They put a warning sticker on a car which asked the owner to move it to avoid being considered an abandoned auto and towed. The owner called Abandoned Autos to complain about the warning and then the owner called the Office of the Ombudsman as well.

The complainant (owner of the vehicle) believed the person who called to complain about her car was a neighbor who did not want her parking close to the neighbor's driveway making it hard for the neighbor to back out. The complainant, who lives on a corner lot, also said the neighbor told her she should not park anywhere on the street because the front of the complainant's house is on the cross street.

The neighbors have repeatedly called numerous City bureaus for enforcement of parking and abandoned vehicles ordinances and housing and nuisance violations. Responding to petty complaints takes valuable resources

and possibly delays City officials from addressing more pressing needs. All of the bureaus involved have referred this complainant and other similar complainants to Resolutions Northwest, a nonprofit mediation provider in Portland.

Mediation provides an opportunity for people in conflict to meet, talk and craft their own solution to an argument or dispute. It is a chance to sit down with a trained, impartial mediator, talk about what is happening, and figure out what everyone can do to create a mutually agreeable solution. Often, these seemingly long-standing, intractable disputes can get resolved if people agree to try mediation.

When the City cannot get involved in disputes between two neighbors, mediation is a valuable option that citizens can choose for no or very little cost. Resolutions Northwest helps neighbors and families in Portland resolve conflicts in a positive way. Portlanders can contact **Resolutions Northwest at 503-595-4890.**

### Elders in Action Provides Helpful Assistance

**A**n elderly property owner was out of compliance with various City Codes. He contacted the Office of the Ombudsman to seek assistance in working with the City bureaus. Our office investigated the issues and determined the City was following City Code and had attempted to work with the property owner and provided an extended period of time to bring his property into compliance, but he had not yet complied.

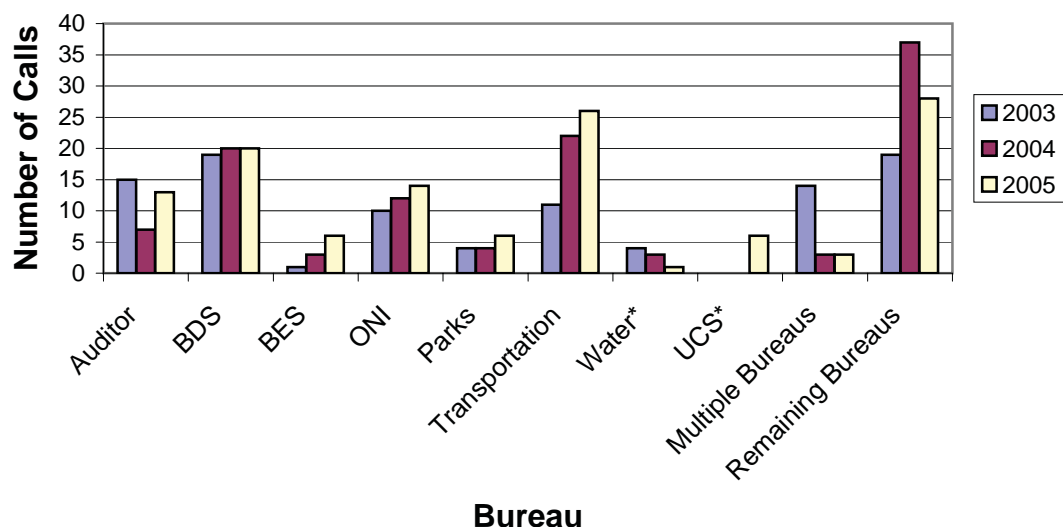
Our office suggested the elderly property owner contact Elders in Action (EIA). EIA is a nonprofit organization that focuses on the active involvement of older adults throughout the community. One of the services they provide is their own ombudsman services that utilizes trained volunteers to provide support and assistance to senior citizens or individuals with long term disabilities, in the metropolitan area who are experiencing problems with healthcare, housing, crime and elder abuse. Their ombudsman services can also provide one-on-one prob-

lem solving assistance. Upon request, they can act as an advocate for another person while trying to get a problem solved. EIA ombudsman volunteers can help research problems, identify solutions, educate about rights, provide "listening ear" and emotional support, help fill out forms and make phone calls, provide information about community resources, and advocate to protect a client's rights, safety, dignity and well-being.

The EIA Ombudsman Service was able to work with the property owner to extend the time he was allowed to bring the property into compliance. In the end, the property owner was able to correct the code violations.

When the City's Office of the Ombudsman identifies individuals who may need advocate assistance, we do our best to refer them to the proper agency so that they may get the extra help they need that we cannot provide. Thanks to Elders in Action volunteers for helping! To contact the **Elders in Action Ombudsman Services, call 503-823-5293.**

Information Requests 2003-2005



\* In 2005 Utilities Customer Services (UCS) was moved out of the Water Bureau. This Chart reflects that new organizational structure.

## RECOGNIZING OUTSTANDING SERVICE

**W**e have found that the vast majority of City employees are dedicated to public service and often receive little recognition. We thank those workers, and would like to provide a special "thank you" to a handful of City employees who have provided exceptional help in assisting the Office of the Ombudsman in resolving complaints. This year we would like to acknowledge and thank the following people.

**Jerry Baarspul and Mike Stuhr of the Water Bureau** went the extra mile to assist condominium owners with complaints after the Bureau significantly upgraded infrastructure in the area. While the condominium complex suffered due to a poorly built system under a private developer, the Water Bureau made significant public works improvements and worked to address the owners' concerns.

**Judy Crockett of the Office of Sustainable Development** has provided an extensive amount of her time and the necessary leadership to guide the Containers in the Right of Way Committee (CROW) in the development of solutions to the problem of garbage and recycling containers being permanently located on the public sidewalks.

**Lana Danaher of the Bureau of Environmental Services** has on numerous occasions helped review critical details of complicated development cases and help reach resolution. She proved to be fair minded in understanding the costs to private developers for delays and construction requirements while protecting the public interest from future liabilities resulting from substandard work.

**Mary Jo Markle of Commissioner Sam Adams Office** provided coordinated assistance on a number of complicated issues. Most notably, she was instrumental in bringing forward the resolution to City Council directing a handful of bureaus to participate in working with private interest groups to end the stalemate and solve the problem of garbage dumpsters and containers from being permanently stored on public sidewalks.

**Michael Mock of the Revenue Bureau** was an instrumental player in finalizing the policy reform within the Utilities Customer Service operations. Policies now reflect a more collaborative approach toward customer service, yet still preserve fiscal responsibility. Included in the reforms is a pre-shut off administrative review that is heard before a panel of three, including one citizen representative. Michael formerly served as the Mayor's Public Advocate under both Mayors Katz and Potter.

Additionally, we would like to thank both **Margaret (Peg) Genné and Ellen Jean** of the Auditor's Office for their help with this annual report.

### INFORMATION REQUESTS

**Q**uestions that are not jurisdictional complaints are logged as Information Requests. Office of the Ombudsman staff work to provide thorough responses to information requests. These are not simply referrals. However, when referrals are warranted, staff refers the person to the proper source.

## CITY TECHNOLOGIES NOT FOR PRIVATE USE – E-MAIL IN MOTION

In May of 2005, our Office received the first of a number of complaints regarding periodic e-mail messages sent to a large number of City employees by a company contracted by the City to provide vehicles for City employees. As a cost savings measure, City motor pool vehicles were being replaced with “short term” use vehicles supplied by the private company. Employees who might use one of these vehicles were required to complete an application which included their work e-mail address.

The first complaint concerned the company offering complimentary application processing fees and/or one complimentary year of membership for employees who wished to register for a personal account if they also had a City account. In order to avoid even the appearance of impropriety, this Office recommended employees not be sent discounts or other benefits for their personal use, or any other marketing material. This was based largely on PCC 1.03.020 B, “City officials promote public respect by avoiding even the appearance of impropriety.”

Reasonable minds may differ on what constitutes the appearance of impropriety. The City Attorney’s Office in consultation with the Bureau of General Services concluded that the proposed discount did not create that appearance since it is available to private employees as well as public employees. This position was supported by the State Standards and Practices Commission in their conclusion that similar discounts were not being received as a result of the holding of a public position. Based on the opinion, City employees were allowed to obtain a one year free membership as a result of a City contract with the company.

Additional complaints regarding the company’s promotions were received in October 2005. The Office also received a complaint regarding promotions on the City’s system unrelated to the vehicle contractor. Human Relations Administrative Rule 4.08, Information Technologies, was amended in January 2006 to allow limited exceptions to the prohibition on private use of City technologies. The proposed revision was intended to clarify and emphasize that the City’s information technologies can not be used to endorse a commercial entity except under very limited circumstances. The new Rule 4.08 states in part:

“Neither the City’s e-mail system nor the City’s intranet may be used for commercial activities, religious causes, or support for other activities that are not related to the direct conduct of city business. An exception may be permitted if such information is central to a bureau’s mission and meets stated Council goals and objectives. The exception must be pre-approved by the Commissioner-in-Charge.”

In January 2006, the company sent another email message to City employees registered with the company offering \$50 credits for recruiting new members, and offering employees free food, beer and wine at four different promotional events during January. The Office of the Ombudsman objected to the message,

based on it conflicting with Administrative Rule 4.08. The City Chief Administrative Officer sought further review by the Office Management and Finance (OMF) as to whether the messages were appropriate. The Senior Business Operations Manager indicated he would ask the company not to send this sort of mailing again as they are a for-profit company.

In February, the company again sent an email message to employees offering discounts, promotions, and free food and beverages at several events. The Ombudsman was advised that the City’s Senior Business Operations Manager had contacted the Executive Director of the company. Reportedly, the Executive Director was shocked the messages were being sent since the City e-mail addresses were to have been removed from the mailing list.

In March, two separate e-mail marketing messages were sent to City employees, again offering discounts and free food and beverages at several venues during the month. On the same day the messages were sent, a rep-



Photo: Diane Bilyeu

resentative from the company contacted City officials and reported they had contacted their email message distributor who said they were going to unsubscribe all email addresses with “portland.or.us”, as well as any at “pdxtrans.org”. They offered to unsubscribe additional domains as requested. The Bureau of Technology Services was to provide other City domains for removal.

In April, another message was sent to employees. In addition to the familiar discounts of free beer and food, this message asked users, including City employees, to provide statements in support of the company’s services as they continued their national expansion. As with the other emails, this Office voiced objections. As a result, on the following day a company representative indicated she had found the problem. She said that in early March she had sent the list of city email domains to exclude to their email vendor who assured her any addresses with those domains would not receive messages unless they were purely operational in nature. She said City employees should not have received the e-mail. The contractor acknowledged the email was in violation of City of Portland policies and said they were working hard to ensure it would never happen again.

After consulting with the Director of Purchases, we learned that while there was no standard contract language addressing the

use of City email addresses, they could work with the City Attorney’s Office to include a term that requires a contractor to obtain written permission from the City. He went on to explain that while the company could recognize the City as a user on its website and in newsletters, public relations or marketing purposes beyond this would require the company to contact the City for prior approval.

Purchases noted the agreement was established as a 5-year term with the first 12 months being a trial period. City Fleet Services could revisit this issue to see if other companies offer a similar program and, if so, they may want to consider conducting a competitive selection process.

In May 2006, the company sent another email to their users, including City employees. In this message, in addition to the discounts and offers of free food and beverages, the company asked employees to lobby against the Portland Office of Transportation’s proposal related to charges the company must pay for the reserved parking spaces on the public streets for their vehicles. This was the most disturbing of the periodic emails due to lobbying content and the failure to remove email addresses as previously assured.

The City responded by blocking emails from the company. This Office recommended their emails be permanently blocked, so the company no longer had the capacity to send their messages to City employees. After receiving feedback from City employees and the contractor, this Office revised the recommendation to blocking marketing and promotional emails and allowing only strictly operational emails messages to be sent to employees. In addition, this Office recommended if a need should arise for City users to receive information about the contracted services through a broadcast message, such messages be sent through the appropriate City bureau. An official letter from the City to the company was sent.

While the problem has recently been resolved, City agencies could have taken more prompt and aggressive efforts to stop the emails at an earlier stage rather than relying on the failed assurances of the contractor. The results of this case will help increase awareness and support City agencies in being more vigilant in preventing the misuse of City employees email addresses in the future.

*Nothing was getting done until I called the Ombudsman’s Office; it is good for citizens to have it to keep the city in check.*

~Comment from 2005 satisfaction survey

## PROGRESS MADE ON TWO ISSUES PREVIOUSLY EXAMINED BY OMBUDSMAN OFFICE

### WATER & SEWER BILLING APPEAL POLICIES ADOPTED

The Office of the Ombudsman's 2003 Annual Report discussed issues identified with water and sewer billing and collection services. A formal report was released on March 10, 2004. That report identified, in part, a discrepancy between Portland City Code, which stated customers were entitled to a pre-shutoff hearing and internal practices of offering customers an internal administrative review. The Office of the Ombudsman recommended that the Water Bureau (WB) either comply with the pre-shutoff hearing provision, or amend the City Code to define a pre-shutoff administrative review process and an avenue of appeal to the Hearings Officer. Additionally, the Office of the Ombudsman recommended that the notice to customers be revised to explain the procedures to request an appeal and explain subsequent appeal options available. The Office recommended that at least one member of the administrative review body be a member of the public and not an employee of the City.

While the Water Bureau worked to improve customer service and address shutoff protests, the discrepancy between the Code and administrative practices continued to exist. In September 2005 City Council established the Revenue Bureau in the Office of Management and Finance. The billing and customer service staff (now known as Utilities Customer Services or UCS) were transferred from the Water Bureau to the Revenue Bureau.

Revenue Bureau and UCS staff began to address several issues relating to water and

sewer billing and collection practices. After a collaborative effort that included input from the Office of the Ombudsman, the City Attorney's Office, the Portland Utilities Review Board (PURB), the Water Bureau and the Bureau of Environmental Services (BES), a new policy and process was proposed regarding how customers can appeal their bill.

Customers can review issues with any customer service staff either in person or by calling UCS. If their concerns can not be addressed, they will be referred to a supervisor or an Advanced Solution Team member. If the customer's concerns cannot be resolved at this level, UCS staff will provide information about seeking a formal administrative review.

The Administrative Review Committee (ARC) is comprised of one voting representative each from BES and WB, and one voting member from PURB. After the ARC notifies the customer of their decision, the customer may appeal the ARC's decision to the Code Hearings Officer. This appeal policy was adopted by City Council on March 1, 2006. The Office of the Ombudsman is pleased that the Revenue Bureau has established this new policy and process. The new process addresses this Office's earlier concerns by including a representative from PURB on the ARC, offering the option of appealing the ARC decision to the Hearings Officer and clearly communicating this new policy to customers. To read this policy in its entirety, please see the UCS website at <http://www.portlandonline.com/omf/ucs>

### CITY COUNCIL APPROVES RESOLUTION TO LOOK AT DUMPSTER ISSUE

In the Office of the Ombudsman's 2002 Annual Report, we reported that garbage dumpsters encroaching on the right-of-way were an increasing problem throughout the City. In that report, we recommended:

1. Adoption of a definitive regulation that prohibits garbage outside the property line except for pickup;
2. Developing an incentive for owners of older buildings to make accommodation for the garbage; and,
3. Council support for enforcement, both political and financial.

Commissioners Saltzman and Francesconi asked our office to address the increasing complaints in December 2004. We convened a meeting with representatives from several City bureaus. While there are some existing rules that provide a means of enforcement, there is not one over-arching code, policy, or directive to address this situation. Therefore, complaints generally go unaddressed. In May 2005, the Office of the Ombudsman released a report asking City Council for policy direction to address

this issue where complaints are on the rise.

With leadership from Commissioners Adams and Saltzman, and support of various business and community groups, City Council adopted Resolution No. 36339 on September 28, 2005 that established a collaborative work group with representation from both the public and private sector to address this issue and "develop proposals to eliminate the permanent placement of waste and recycling dumpsters and containers from the public sidewalks and the public right-of-way within two years of passage of this resolution." The group is to report back to the Council by September 28, 2006 with potential solutions to this problem. Judy Crockett from the Office of Sustainable Development and Calvin Lee, followed by Alex Bejarano, from the Portland Office of Transportation have been leading this workgroup.

While we acknowledge there are no easy solutions to address this issue, we believe that the growing number of complaints as well as the number of negative impacts on the aesthetics and livability of neighborhoods, on local businesses, and on the health and safety of pedestrians and tourists using the sidewalks necessitates the City to solve this problem.

## SPECIAL THANKS TO OUR INTERNS

At various times we are fortunate to have interns assist in the daily operations of the Office. During 2005, Ian Canino and Karen Johal provided assistance. Ian spent the summer in our office during his break from Fordham Law School in New York. In addition to general assistance, Ian conducted the survey regarding emergency plans that lead to the recommendation to improve education, training and signage regarding evacuation plans and procedures for disabled employees and visitors. (See Case Stories) Ian returned to New York to finish his law school career.

Karen Johal is a human resources professional from Canada and while in Portland volunteered for the Office of the Ombudsman. Karen was of great help with general office duties. In addition, Karen worked to develop a brochure that describes all of the Auditor's Office divisions and had the brochure translated into Mandarin, Russian, Spanish, and Vietnamese. (It has also since been translated into Korean.) This is a cost effective way to promote City Services through one concise brochure, instead of each division incurring the costs associated with developing and translating brochures on their own. Karen has returned to British Columbia and is working in human resources for Best Buy Canada.

We wish both Ian and Karen the best as they continue their careers.

### How To Contact Us

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Photo: Steve Bonini

Ombudsman Michael Mills & Deputy Ombudsman Kristen Erbes under the Burnside Bridge.

