

Annual Report 2015

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Staff



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Tony Green
Deputy Ombudsman



Gayla Jennings
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om·buds·man | *noun* [om-buhdz-muhn]

1. An independent and impartial individual who responds to complaints from the public about government services and practices;
2. One who handles complaints from the public in a direct, informal and consultative manner;
3. An advocate for good, fair and just government.

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The role of an ombudsman is part fact-finder, part investigator, part systems analyst, part judge, part conciliator, and, if necessary, part advocate for the citizen.

– Sam Zagoria, former Washington Post Ombudsman

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The powers granted to the ombudsman allow her to address administrative problems that the courts, the legislature and the executive cannot effectively resolve.

– Supreme Court of Canada

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To: City Council, Bureau Directors and members of the public:

I am pleased to introduce the Office of the Ombudsman's 2015 Annual Report.

Portland's Office of the Ombudsman is uniquely situated to independently and impartially review complaints from community members who feel wronged by City government. Even the best functioning bureaucracy will sometimes make mistakes, treat people unfairly or simply reach the wrong decision. The mission of this office is to help correct those errors, seek redress for people who have been treated unjustly and improve trust in City government.

To make the most of our small office, we focus our investigations on complaints where we can have the biggest impact. This means that we often take on difficult, complex issues where the potential for an unjust result is acute, that suggest a system-wide problem or that involve an important principle of good government. People seek us out as a last resort. Our resolution of their complaint can determine whether they remain in their home, keep the water from being shut off or stay in business.

The stakes are also high for the employees and bureaus against whom complaints are made. No small part of our job is to absolve and support them where complaints are unfounded.

We strive to be more than just critics who point out errors. We have achieved some of the very best results by cooperating with City officials in search of solutions that improve the way government does business for everybody. This past year, we worked with City Council to make it much easier and more affordable for residents to exercise their right to appeal City decisions. And we worked with City officials during the 2015 state legislative session to obtain new authority to crack down on contractors engaged in fraud.

Finally, I'd like to take this opportunity to introduce our newest staff member, Deputy Ombudsman Tony Green. Tony came to us from the Oregon Secretary of State's Office and prior to that had a long career as a reporter for *The Oregonian*. He doubles our investigative capacity and we are grateful to have him aboard for 2016.

Margie Sollinger, Ombudsman



City of Portland

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Removing barriers to justice

It was a common complaint: community members who believed the City had made the wrong decision could not figure out how to appeal and faced exorbitant fees to exercise their rights. Seeing a potentially systemic problem, the Ombudsman surveyed City code and rules and discovered nearly 200 different administrative procedures for the public to appeal City decisions.

The City decisions ranged from towed vehicles and water shut-offs to permit denials and property exclusions. The appeal procedures varied. Notification was inconsistent. The filing fee for some appeals exceeded \$1,300.

Fundamental to a fair appeals process is knowing your rights and affording the filing fee. The Ombudsman worked with bureaus and public stakeholders to propose setting minimum notification standards and limiting the filing fee for appeals to the Hearings Office to a nominal amount.

City Council unanimously approved the Ombudsman's proposed reforms.



City Auditor Mary Hull Caballero introduces the Ombudsman's Administrative Justice ordinance to City Council in April 2015. The League of Women Voters, National Lawyers' Guild, Citizens' Utility Board of Oregon, Office of Equity and Human Rights and members of the public testified in support.

Combating contracting fraud

A business was accused of fraudulently obtaining thousands of dollars' worth of Housing Bureau funded subcontracts under a City program designed to help businesses owned by women and minorities. Despite strong evidence that the business acted as a pass-through for a non-minority, male-owned business, state regulators declined to take action. To make matters worse, state law precluded the City from taking action against the business.

The Ombudsman spoke with local, state and federal law enforcement officials. The Oregon Department Justice stepped up and agreed to pursue the case. The result was a settlement of the state's allegations under the Oregon False Claims Act, requiring the business to pay \$15,000 and relinquish its state certification as a minority- and woman-owned business.

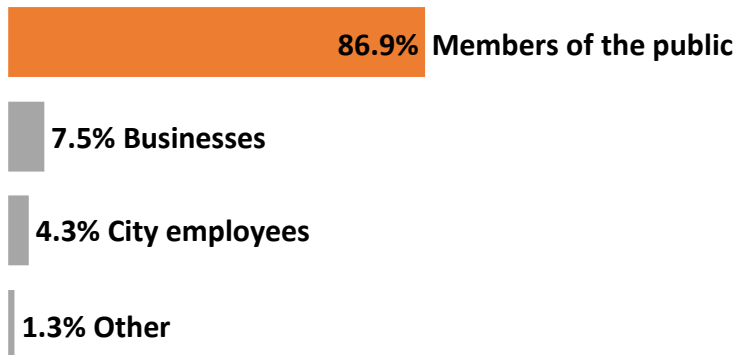
The Ombudsman also sought a systemic fix. City Council agreed to propose state legislation giving local governments the power to punish businesses that defraud the City's social equity in contracting program. Governor Kate Brown signed the bill into law after the Legislature unanimously approved it. The City can now sanction businesses that flout the law and undermine its efforts to reverse historic discrimination in contracting opportunities.



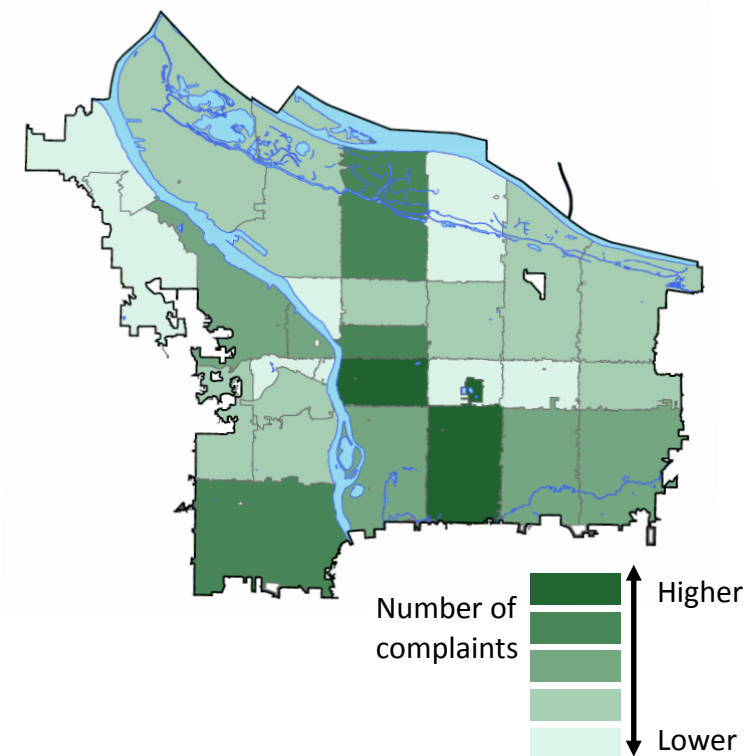
June 17, 2015: Governor Kate Brown's ceremonial bill signing for Senate Bill 584, a City of Portland initiative.

Who uses our services?

The Office of the Ombudsman received 467 contacts in 2015. The vast majority were from members of the public. The remaining contacts were mostly from businesses and City employees.



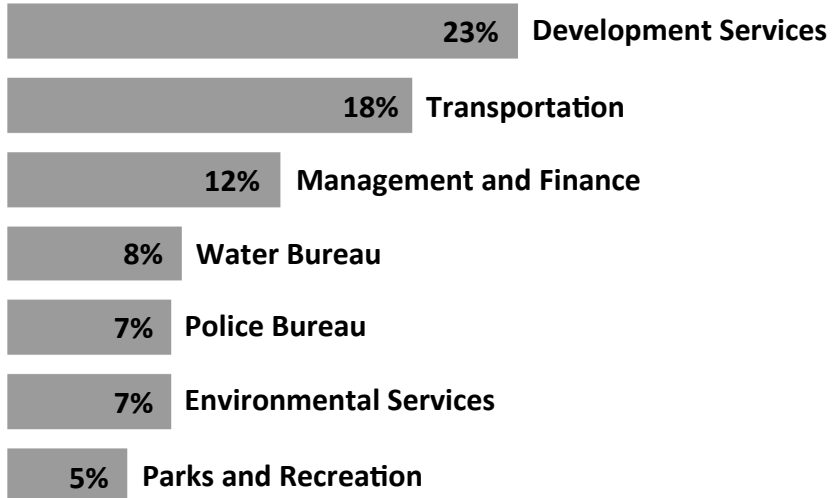
Of the total contacts, 187 were complaints within our jurisdiction to investigate. Those that filed complaints with our office represented a broad geographical cross-section of Portland residents.



The remaining 280 contacts included information requests about City functions and complaints outside our investigative authority.

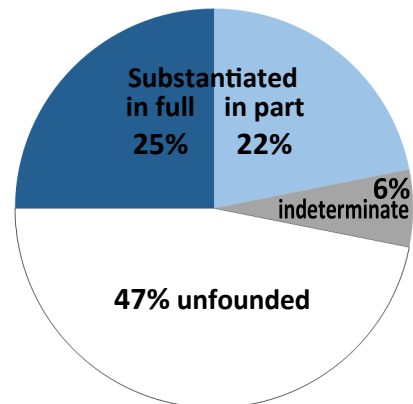
Bureaus receiving the most complaints

The Ombudsman received complaints in 2015 regarding nearly every City bureau. Although higher numbers of complaints are expected for bureaus performing regulatory and enforcement functions, high numbers of repeat complaints can also be an indication of problem areas. For the second year in a row, Development Services was the subject of the most complaints to the Ombudsman's Office.



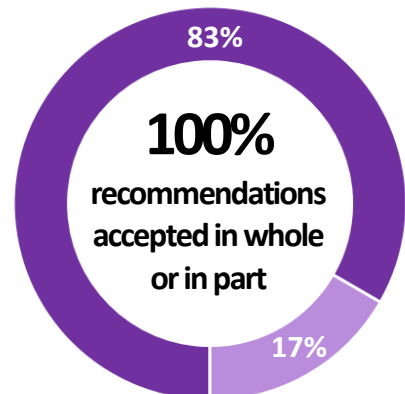
Outcomes of investigations

An equal percentage of investigated complaints were substantiated in full or in part as were determined to be unfounded. Six percent of investigations had insufficient evidence to reach a conclusion.



Recommendation acceptance rate

In 2015, City bureaus accepted 83 percent of the Ombudsman's recommendations in whole and the remaining 17 percent in part.





The public has a right to an open government. The Ombudsman's investigations help achieve a more transparent and accountable City government.

Conflict of interest disclosure

The Bureau of Planning and Sustainability did not ensure compliance with state conflict of interest law when it convened a series of stakeholder advisory committees to make land use and urban planning recommendations. State law required that committee members timely and publicly disclose if they could financially benefit from their recommendations. At the Ombudsman's suggestion, the bureau took corrective action, asking that committee members disclose potential conflicts of interest prior to City Council's final vote. Going forward, the City Attorney's Office is putting together a standard training for all advisory committees that will apprise members of their obligations as public officials under state ethics laws.

Public records

A City employee requested records of an investigation into the conduct of a high-level Fire Bureau manager accused of misconduct. Although the Fire Bureau had already provided the same records to the media, officials refused to turn them over to the employee. The Ombudsman suggested the employee petition the District Attorney's Office to overturn the bureau's decision because it was contrary to law. On appeal, the District Attorney rejected the bureau's arguments for keeping the documents secret and ordered officials to turn them over.

Open meetings

A Bureau of Development Services subcommittee met regarding house demolitions in violation of state open meetings law, which requires public notice and the publication of minutes. Based on the Ombudsman's recommendation, the bureau re-held the meeting in compliance with open meetings law.



When community members encounter an unyielding City bureaucracy, the Ombudsman is uniquely positioned to break through barriers and advocate for a fair result.

Fair compensation

A Portland resident filed a claim for compensation with the City's Risk Management division. She lived next door to a house that was the subject of a violent police raid that used explosives to gain access. Not only did the blasts blow out her windows, but later she discovered structural damage to her home that she believed the police raid caused.

The City paid for the windows right away, but refused to compensate her for the structural damage claim she filed several months later. Risk staff argued that by cashing the check for the windows, she had signed away her right to any additional compensation.

The Ombudsman urged the City to reconsider based on a Charter provision designed to promote fairness when strict adherence to City rules would lead to an unjust result. More than a year after the police raid, the City agreed to pay the costs of the structural damage not covered by the resident's insurance.

Overdue refund

A commercial property owner learned that the City was overcharging him for stormwater run-off. Repeated phone calls and nine months later, the City provided him with a partial refund, but accused him of disingenuously seeking money owed to others. The Ombudsman combed through utility billing records and found evidence that the owner was due an additional refund, which the City paid.

WANTED

Contact us if you believe a City action is:

- ⇒ Unlawful
- ⇒ Unjust
- ⇒ Unfair
- ⇒ Unclear
- ⇒ Unreasonable

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www.portlandoregon.gov/auditor/ombudsman

 [@PDX_Ombuds](https://twitter.com/PDX_Ombuds)

OpenCity Tipline

Anonymously report suspected corruption, fraud, waste, abuse of position, and/or misuse of City resources.

To make a report:

(866) 342-4148

www.opencitytipline.com

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