



We speak up for fairness

Northwest Territories Ombud

INVESTIGATION UPDATES

A Shortfall in C.A.R.E.: Fairness in Homeowner Assistance Programs

Taxation Without Property: Fairness in Property Assessment and Taxation

Special Report to the Legislative Assembly

1-2023



Northwest Territories Ombud

We speak up for fairness

September 8, 2023

HONOURABLE FREDERICK BLAKE
SPEAKER
LEGISLATIVE ASSEMBLY

Dear Mr. Speaker:

It is my duty and privilege to submit the attached special report to the Legislative Assembly *Investigation Updates*, pursuant to subsection 43(3) of the *Ombud Act*, being of the opinion that it is in the public interest to do so.

Sincerely,



Colette Langlois
Ombud

From the Ombud

This report provides an update on the recommendations from our first two special reports: *A Shortfall in C.A.R.E.: Fairness in Homeowner Assistance Programs* and *Taxation Without Property: Fairness in Property Assessment and Taxation*. Both reports were issued in 2021.



Updates are a way to ensure our reports do not simply gather dust on a shelf, and that authorities are publicly accountable for following through on any promises to take action. They also provide insight into the ongoing impact of recommendations, which, as this report shows, can contribute to broader organizational changes in addition to solving the specific problems identified in the investigations.

Going forward, I expect that we will continue to issue updates on these and our more recent investigations approximately once a year.

A Shortfall in C.A.R.E. included 5 recommendations to the Northwest Territories Housing Corporation (NWT HC), which has since been renamed Housing NWT. One of the recommendations was for an apology to the complainant, which was provided shortly after the report was released. The other 4 recommendations concerned registration of pre-2017 mortgages, staffing levels in the South Slave District Office, training for frontline staff, and service delivery standards for the Contributing Assistance for Repairs and Enhancement (CARE) Program.

At the time the report was released, NWT HC had already begun a renewal process. A renewal strategy and a new corporate mandate were released in late 2021 and early 2022 respectively. This process is likely to lead to program and operational changes that will have broader impacts on some of the issues the recommendations touched on.

I want to acknowledge Housing NWT for taking on the spirit as well as the letter of the recommendations for reviewing staffing levels and implementing service delivery standards. These recommendations were specific to the South Slave District Office and to the CARE program respectively. While the work is not yet complete, Housing NWT has taken on a much larger task than the recommendations envisioned by extending them across the organization. I applaud their efforts and encourage them to continue in this direction guided by their newly established corporate value of “client focus”.

I recognize the challenges Housing NWT faces in registering some of its older mortgages and urge them to continue to look for solutions to avoid anyone else ever having to go through the situation our report described. Housing NWT has already put in place measures to better manage mortgage-related data, which is itself a positive outcome.

Housing NWT has begun providing staff training to support trauma-informed and client-centred service, and is also extending its offerings to other service providers such as local housing organizations. This is a very positive development as it is in the interest of fairness not only to clients, but also to Housing NWT and partner agency employees who need these skills in

their day to day work. While this is significant progress, I do not yet consider this recommendation complete and we will report on it further and in more detail in our next update.

Taxation Without Property included 8 recommendations to the departments of Finance and Municipal and Community Affairs (MACA). Five of the recommendations were aimed at ensuring people who in the past occupied property without a lease or title do not continue to be charged new taxes if the land later becomes vacant. For example, someone might for a number of years have a home or cabin on land where they do not have a lease or a title, then take it down and leave the land empty. While they might still owe taxes from the years when they had buildings, they should not have to pay any added taxes on empty land.

This work has been complicated by the need to involve the former Department of Lands and now the Department of Environment and Climate Change (ECC), which has responsibilities for land tenure. MACA, Finance and ECC are close to completing an information sharing agreement which meets the requirements of the *Access to Information and Protection of Privacy Act* and, once finalized, will allow progress on the recommendations.

It is taking a long time to resolve this issue. Since the report, MACA has identified approximately 21 properties that may be in the same situation as the complainant who brought this issue to our attention. I am most concerned that, like the original complainant, some of those assessed owners could be experiencing distress and worry over the amount of their tax arrears. I urge the Departments to prioritize those files as soon as the information sharing agreement is in place.

The other 3 recommendations were aimed at ensuring people have access to plain language information about how property assessment and taxation apply to unauthorized occupants, how assessed owners can go about having their assessment status reviewed, and the Property Tax Arrears Program and how to apply for it. Two of these recommendations are complete, and the third will be actioned when the next Notices of Assessment are mailed.

I hope that by our next update report all outstanding recommendations will have been completed.

Colette Langlois
Ombud

September 2023

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A Shortfall in C.A.R.E.: Fairness in Homeowner Assistance Programs

This report followed an investigation into a complaint by a family member of a Northwest Territories Housing Corporation (NWT HC) client. The complainant's concerns related to both the history of maintenance, repair and retrofit work on her mother's home through NWT HC homeowner assistance programs, and, following her mother's death, the NWT HC's dealings with her as executor of her mother's estate.

Our investigation found that the NWT HC failed to make reasonable efforts to help the client complete her application for homeowner assistance, to follow up on her concerns, and to communicate with her about the work on her home.

Our investigation also found that the NWT HC acted unjustly and oppressively by unnecessarily starting litigation against the client's estate. The litigation was distressing and costly to the complainant as the executor of the estate, an heir, and a grieving daughter. It alleged, in part, that the house had been transferred to the estate "fraudulently" even though the complainant had no notice of the mortgage until after the transfer.

NWT HC's interest in recovering the \$72,000 mortgage balance would never have been at risk if the NWT HC had properly registered the mortgage with the Land Titles Office at any time between 2011, when the client signed the mortgage agreement, and 2018 when the client passed away.

At the time NWT HC filed its statement of claim, the complainant was still trying to reach a resolution with NWT HC. Negotiations were held up in part by NWT HC's refusal to provide information the complainant had repeatedly requested. The estate's lawyer had provided NWT HC with an undertaking to hold proceeds from any sale of the property in trust to cover the balance owing. While NWT HC had a legitimate interest in recovering the outstanding balance, it had options to resolve the matter without resorting to the courts and causing the complainant unnecessary distress and legal fees.

Recommendations

The Ombud made the following 5 recommendations:

1. It is recommended that within the next 90 days, NWT HC review all of its mortgage files to identify any unregistered mortgages and ensure those mortgages are registered promptly.
2. It is recommended that within the next 90 days, NWT HC apologize to Ms. Smith [the complainant] for its response to her efforts to resolve her mother's estate, in particular for withholding information about her mother's file before her access to information request and for commencing litigation against her and the estate.

3. It is recommended that NWT HC review its staffing levels in the South Slave District Office to ensure they are adequate to meet its program and service delivery responsibilities in a client-centred manner, and, if necessary, increase staffing levels within one year.
4. It is recommended that within one year, NWT HC provide training to frontline staff on client-centred approaches to service delivery, in particular trauma-informed service delivery, dealing with hostile client behaviour, and communicating with clients with hearing loss or other conditions that may affect their ability to receive or provide information to NWT HC staff.
5. It is recommended that within one year, NWT HC put in place reasonable and proactive service delivery standards including timelines for: following up with clients who have identified needs but have incomplete CARE applications; responding to client concerns; and keeping clients informed about the progress or status of their CARE applications and/or projects.

The Minister Responsible for NWT HC accepted all 5 recommendations on June 23, 2021.

Update

Housing NWT provided an update on the recommendations in October 2022, with further clarifications on Recommendation #1 in November 2022 and July 2023 and on recommendation #4 in August 2023.

Recommendation #1

This recommendation is still in progress as of July 2023. As noted in the report, a system has been in place since 2017 ensuring mortgages from that time forward are registered. However, as of November 2022, there were still mortgages from before 2017 that remained unregistered. Reasons included not having documents in a form acceptable to the Land Titles Office; properties with lease or tax arrears making them unregistrable; and properties on Indian Affairs Branch lands or a reserve, which are also unregistrable. Housing NWT advised it has identified inconsistencies in mortgage-related data, and has implemented regular, systemic file reviews to ensure mortgage data remains accurate and up-to-date.

Recommendation #2

This recommendation was completed in 2021.

Recommendation #3

This recommendation was still in progress as of October 2022. While the recommendation specifically addressed the South Slave District Office, as outlined in its strategic renewal released in November 2021, Housing NWT advised it is looking at staffing levels organization-wide and in particular the balance between headquarters and regional offices. Program changes under consideration as part of the renewal could also impact staffing needs.

Recommendation #4

Housing NWT advised that it has reinstituted annual conferences for programs staff which were suspended during the COVID-19 pandemic. It was also able to obtain \$600,000 in federal funding to build capacity in the homeless serving sector through communication and situational management training. Beginning early in 2023, it has offered training to Indigenous government partners, NGOs, community partners and Local Housing Organization staff throughout the NWT on:

- Solution-oriented situational management
- Managing stress
- The power of discretion
- Enhanced observation and awareness
- A 5-day certificate program “Responding to Trauma and Grief for Indigenous Communities and Organizations”
- A 1-day workshop on Front Line Skills for Social Services

They are also planning a full day of training on trauma-informed service at an upcoming workshop for local housing authority managers, and if it is well-received may put on additional workshops in the future.

Recommendation #5

This recommendation was still in progress as of October 2022. Housing NWT advised that the CARE program no longer exists, but that believes a system-wide approach to standards is required and is working on this. More generally, “client focus” is one of the six values included in Housing NWT’s mandate, which was released in January 2022.

Taxation without Property: Fairness in Property Assessment and Taxation

This report followed an investigation into a complaint made by an individual who asked the Ombud to look into his property tax bill for a parcel of land in his community that he had once lived on as an unauthorized occupant, but that had been vacant for several years. Even though he had no legal interest in the property, and was no longer occupying it, taxes and penalties were accumulating each year because he was still listed as the assessed owner.

Following the Ombud's intervention, officials in Municipal and Community Affairs (MACA), which is responsible for property assessment, and Finance, which is responsible for property taxation in non tax-based communities, cooperated to find a solution for the complainant which reduced his outstanding property tax debt considerably and removed him from the assessment roll for the parcel in question.

Our investigation found that the following practices were unjust and oppressive in relation to former unauthorized occupants of land that has since become vacant:

- Keeping them on the assessment roll if they have tax arrears
- Continuing to charge new property taxes each year if they have tax arrears.

Our investigation also found that:

- MACA did not provide reasonable access to a process for the complainant to have their assessment roll status reviewed
- MACA did not provide reasonably accessible information about how property assessment applies to unauthorized occupants
- Finance did not provide reasonably accessible information about the Property Tax Arrears Program.

The Ombud made 8 recommendations aimed at ensuring other people who are unauthorized occupants of what is now vacant land and are still being charged taxes, can have their assessment status and property taxes reconsidered as well. The recommendations also called for more accessible information about how property assessment and taxation apply to those occupants, the Territorial Board of Revision process for requesting reviews of property assessments, and the Property Tax Arrears Relief Program.

Recommendations

The Ombud made the following 8 recommendations:

1. It is recommended that within 90 days MACA review its own records to identify:
 - a. which assessed owners are known or likely unauthorized occupants; and
 - b. which properties currently assessed to known or likely unauthorized occupants are vacant and as of what date according to existing MACA assessment records.

2. It is recommended that within 180 days, MACA establish a process and timelines to confirm which assessed owners are unauthorized occupants; to confirm whether those parcels are still occupied; to remove unauthorized occupants from the assessment roll once the occupancy has ended; and to track that information going forward. If necessary, the process should include reconsideration of sections of PATA that may need clarification for MACA to be able to proceed.
3. It is recommended that within 180 days, Finance establish a process to remove current and previous taxes and associated penalty interest on vacant lands where the assessed owner is an unauthorized occupant, based on satisfactory evidence from MACA, the assessed owner, or other sources, that the land was vacant as of a particular date.
4. It is recommended that within 180 days, MACA and Finance jointly establish a protocol for exchanging information with each other to facilitate the review of unauthorized occupants' current and prior year taxes, and to communicate any changes in assessed ownership status and/or taxation to affected individuals.
5. It is recommended that within the next year MACA develop a simplified process for unauthorized occupants to be taken off the assessment roll after they vacate the land or someone else takes it over, and provide information in accessible language to unauthorized occupants on this process.
6. It is recommended that before the end of 2021 MACA and Finance develop and distribute information in accessible language on how property assessment and taxation apply to unauthorized occupants.
7. It is recommended that with the next notices of assessment, MACA provide information about the Territorial Board of Revision process in accessible language as well as regional or local contacts people can speak to for more information and assistance.
8. It is recommended that by the end of 2021, Finance provide simplified information about the PTAP in mailouts to qualifying individuals and/or through a public information campaign.

The Ministers of Finance and MACA advised that they were in substantial agreement with the recommendations on June 8, 2021 and August 5, 2021 respectively, although they did signal that more time would be needed to complete the recommendations than the timelines provided.

Update

MACA and Finance provided a joint update on the recommendations in April 28, 2023, and MACA provided further information in July 2023.

Recommendation #1

This recommendation is complete. The results indicated approximately 391 assessed owners may be unauthorized or untenured occupants, and of the assessed properties approximately 21 may now be vacant land.

Recommendations #2, 3, 4, and 5

These recommendations are all in progress. Completing them involves not only MACA and Finance, but also the Department of Environment and Climate Change (ECC), which is responsible for land tenure administration. It also requires an ability for the 3 departments to share information. The departments have identified that there is no standardized process for taxing unauthorized occupants, and there is also no information sharing agreement between them.

To comply with the *Access to Information and Protection of Privacy Act*, the departments must complete a Privacy Impact Assessment and have a Common or Integrated Program (CIP) Agreement in place before they can share information. The CIP is needed to make further progress on the recommendations. MACA and Finance anticipate the CIP will be complete by this fall, and that they will then be able to complete recommendation 2 by the end of the 2023-2024 fiscal year.

Once it receives the necessary information, Finance has a method, based on common accounting business processes for Accounts Receivable, to remove current and previous taxes. This needs to be based on satisfactory evidence from MACA, or from the assessed owner or other sources of information with confirmation from MACA. Through the CIP, the departments will work on determining an approach for changes in assessed ownership status and taxation implications for affected individuals. MACA has identified the vacant lots, and is working with ECC to develop a simplified process to have former unauthorized occupants of those lots removed from the assessment roll.

Recommendation #6

This recommendation is complete. Finance and MACA have developed a one-page information bulletin which has been sent to regional MACA offices, will be advertised in newspapers, and included in future Property Tax invoice mailouts. The mailout lets people know upfront that even if someone does not have a title or lease for a property, they can still be subject to assessment and taxation. It also explains what “assessed owner” means, what are the responsibilities of an assessed owner, what someone should do if they believe there is an error on their notice, what happens with notices of assessment, and options for property tax arrears.

Recommendation #7

This recommendation is in progress. Recent amendments to the *Property Assessment and Taxation Act* made changes to the Territorial Board of Revision and Assessment Appeals processes. The changes came into force on March 30, 2023. MACA intends to develop a 1-page mailout that will explain information about the Territorial Board of Revision process and reflect recent legislative changes. The mailout will be included in the 2024 Notices of Assessment.

Recommendation #8

This recommendation is complete. Finance promotes the Property Tax Arrears Program through direct communication with taxpayers or by including information with annual property tax invoices. Finance completed and distributed a mailout with simplified information about the Property Tax Arrears Program and how to qualify for it. Importantly, the mailout gives the headquarters email and toll-free number, but also lets people know they can talk to their Government Service Officers and Regional Lands (now ECC) Offices to get help with the application process.