



APPLEWOOD HILLS & HEIGHTS RESIDENTS' ASSOCIATION

Residents Caring for Our Community

www.applewoodhhra.com

August 6th, 2025

Dear Honourable Minister Sarkaria, Honourable Minister Flack and MPP Gualtieri,

We are writing to bring to your immediate attention a recent ruling by **the Ontario Ombudsman** that could have significant and unintended consequences for the enforcement of the **Highway Traffic Act**, as amended by Bill 212. Our concern is that this decision may inadvertently authorize municipalities, specifically the City of Mississauga, to circumvent provincial legislation by using the legal exception of solicitor-client privilege to conceal and advance major infrastructure plans.

The issue stems from a complaint filed with Ontario's Ombudsman regarding a closed-door session of Mississauga's General Committee on October 23, 2024. The official reason for the in-camera meeting was a "verbal update on new proposed bike lane legislation," delivered by the City Solicitor.

In the initial complaint to the Ombudsman it was argued that bike lane policy and infrastructure planning is not a valid reason for a closed session under Section 239(2) of the Municipal Act, 2001, which states closed-door meetings should strictly cover,

- Contracts and negotiations
- Land acquisitions or dispositions
- Personnel and payroll matters
- Litigation
- Security of municipal systems
- Confidential solicitor-client legal advice

Bike lane policies, infrastructure planning, and roadway configurations, (such as the contentious Bloor Street redesign) must remain transparent and open to public scrutiny. However, by classifying the discussion as **solicitor-client privilege**, the City potentially circumvented this transparency.

The Ontario Ombudsman determined on July 14, 2025, that the City's closed-door meeting did not violate the open meeting rules under the Municipal Act. While the Ombudsman's determination is likely based on the technical compliance of the meeting, it may have inadvertently set a troubling precedent.

This ruling, by validating the use of a closed session for this purpose, may have created a legal and procedural pathway for the City to by-pass both public accountability and provincial law by leveraging "solicitor-client privilege," in order to privately strategize ways to rapidly implement (in this instance) bike lanes that remove vehicle lanes, deliberately sidestepping provincial oversight mandated by Bill 212. A

legal and political mechanism to advance projects in this manner could be contrary to the spirit and intent of provincial law.

Here is the reasoning behind our concerns:

Exploiting Solicitor-Client Privilege:

The Ombudsman's ruling relies on the city's claim of seeking confidential legal advice under solicitor-client privilege in Section 239(2)(f) of the Municipal Act. While the consultation itself is protected, **actions resulting from this advice should not automatically be shielded from public scrutiny.** The concern is that the City may now use this privileged consultation

- ▶ as a shield, claiming its subsequent actions are rooted in confidential legal advice and therefore immune from public scrutiny and debate.
- ▶ as a cover to privately strategize ways to rapidly implement significant infrastructure changes before the public or the province can effectively respond, avoiding public transparency, and undermining provincial laws that required oversight on the road/bike lane issues.

This closed-door process could allow municipalities to gain an unfair advantage, fast-tracking controversial infrastructure decisions before the public or the Province can effectively respond. Once these changes are complete, reversing or challenging them becomes prohibitively complex and costly, effectively undermining provincial laws like Bill 212.

Circumventing Bill 212: This situation poses a risk that the city might bypass provincial laws by privately strategizing lane removals for bike lane installations, claiming their decisions were based on privileged legal discussions. Such a process excludes the public from meaningful debate or review of the project's legality under Bill 212.

Erosion of Transparency and Risk of Precedent: Allowing such closed-door sessions sets a dangerous precedent, potentially enabling municipalities to handle any controversial infrastructure or policy decisions secretly under the guise of legal advice. This undermines the transparent governance and public accountability intended by the Municipal Act and could subvert provincial legislative intentions.

Ultimately, the ruling risks granting municipalities a tool to sidestep public consultation and council oversight, making it harder for the public and the province to hold them accountable.

We urge your offices to take immediate action to address these unintended legislative consequences:

- **Review the Ombudsman's ruling:** Analyze its implications for the enforcement of the Highway Traffic Act and the public's right to transparent governance.
- **Issue a clarification or directive:** Provide clear guidance to all municipalities that while they can seek legal advice in private, the planning and implementation of bike lane projects that affect public roadways and vehicle lanes are matters of public policy that must be debated in open council.

- **Reinforce the authority of Bill 212:** Reiterate that all infrastructure changes involving lane removals must be fully compliant with the provincial legislative framework and subject to open council sessions, irrespective of any prior privileged legal discussions.

We have included the Ombudsman's letter and relevant council agendas for your review.

We hope you will act swiftly to prevent the erosion of provincial legislative authority and ensure that the public's right to transparent governance remains protected.

Sincerely,



Kim Pines-Popik
Lead, Save Bloor Committee

Cc:

Applewood Hills & Heights Residents' Association
Save Bloor Committee Members

Attachments:

Click the paperclip icon on the right.

1. 2025 July - Ombudsman Decision July 14th
2. 2025 March - Original complaint to the Ombudsman
3. 2024 October - General Committee Post Meeting - Minutes
4. 2024 October - General Committee Post Meeting - Agenda

Link to Council Documents & Video:

Mississauga Council Meeting – Post Minutes – November 13, 2024 (Item 11.3)

<https://pub-mississauga.escribemeetings.com/Meeting.aspx?Id=2af68daf-7d2f-4067-b73c-fe8d16daae79&Agenda=PostMinutes&lang=English&Item=61&Tab=attachments>