

The Ministère des Ressources naturelles et de la Faune

The Ministère des Ressources naturelles et de la Faune is responsible for managing Québec's land and natural resources. Its mission revolves around fostering the development and preservation of land and natural resources in Québec, as well as generating related information, with the prospect of sustainable development and integrated management for the benefit of the province's citizens.

The department primarily acts in the following areas: the territory, wildlife, forests, mines, energy, publication in the Land Register of Québec and cadastral reform.

A NEW ADMINISTRATIVE STRUCTURE

In 2006, the department changed its administrative structure to better integrate and coordinate the administration of regional files and services. The Québec Ombudsman notified the department that it would closely monitor the impact of this administrative restructuring on services to citizens.

Agence de l'efficacité énergétique

In 2006, the Ombudsperson wrote to the Chair of the Parliamentary Committee on Labour and the Economy Ombudsman to offer her comments regarding Bill 52, *An Act respecting the implementation of the Québec Energy Strategy* and amending various legislative provisions. Under this legislation, the Minister proposed changing the status of the Agence de l'efficacité énergétique's personnel so that they would no longer be subject to the *Civil Service Act*. Given that this agency extends public services directly to citizens, the Ombudsperson asked that the Institution's right to oversee the Agence be strictly maintained, but did not render an opinion on the merits of changing the personnel's status. This recommendation was adhered to, and the *Public Protector Act* was modified to specifically include the Agence.

Complaints Reviewed by the Québec Ombudsman

Ministère des Ressources naturelles et de la Faune	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	25	28	25	3

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

Three activity sectors involve more direct contacts with citizens and are subsequently more often implicated in complaints submitted to the Québec Ombudsman.

The wildlife sector mostly generates complaints related to the delivery of licences and the actions of wildlife officers on the territory. As regards the management of public land, citizens contest, among others, leasing costs and procedures, along with sales and leasing criteria. In the area of property information, cadastral reform activities generate the most complaints.

CADASTRAL REFORM

A few citizens communicated with the Québec Ombudsman regarding cadastral reform. Some of them claimed that mistakes had been made in the reform or that the department refused to make a cadastral reform as per their request.

The Québec Ombudsman's mandate in this area only allows it to determine whether the department properly fulfilled its duties. It must notably ensure that the department has thoroughly analyzed the file and adequately verified the work done by the private surveyor. It must also check that department directives regarding surveying and the legal framework have been adhered to. The Québec Ombudsman cannot directly contact professionals in private practice, nor it can provide professional advice to citizens. It cannot, furthermore, perform technical assessments or reach a decision in the case of uncertainty or dispute regarding property rights.

In 2006-2007, none of the complaints reviewed with regard to cadastral reform were found to have substantiated grounds. Our investigations revealed that most of these complaints involved ambiguity, mistakes or private disputes unveiled by the reform rather than caused by it. Certain malcontent citizens had faulty knowledge of the land register, likely because it is essentially based on somewhat complex legal and technical concepts. In all cases reviewed, the Québec Ombudsman strove to foster greater public awareness while referring citizens to qualified advisors or the appropriate remedies. Given that cadastral reform can potentially impact all citizens who own land, the Québec Ombudsman will remain attentive to this issue by continuing to receive complaints and granting them the necessary attention. This will enable it to identify any new problems while making sure citizens have access to adequate information.

Same response, but justified this time

A citizen complained to the Québec Ombudsman after the Ministère des Ressources naturelles et de la Faune denied his request to redevelop a road located on public land. The department based its decision on potential road safety risks, and a desire to maintain the orientation of the public road access and the protective belt bordering it. Upon reviewing the file, the Québec Ombudsman concluded that the department's refusal was based on an incomplete analysis, given the lack of an objective assessment of the impact of the requested redevelopment. Moreover, the requirement to maintain the existing access road and protective belt orientation did not ensue from any known legislative, regulatory, or administrative provision or standard. Consequently, the Québec Ombudsman deemed the response inadequately substantiated, considering that it was not based on solid enough grounds. It subsequently contacted the department and asked that the case be reviewed.

The department acceded to the Québec Ombudsman's request and conducted a second analysis, which also resulted in a refusal. In this instance, the Québec Ombudsman concluded that the analysis was performed according to good practices, and the decision was adequately justified. It asked the department to provide the citizen with specifics as to its rationale for denying the request.

The Québec Ombudsman had no reasonable grounds to question the merits of this second decision. Its action, however, did result in all elements central to the file being taken into account and the citizen receiving a detailed explanation.

Coordination and standardization of methods

To start up a sawmill on public land, a citizen must first obtain various authorizations from the Ministère des Ressources naturelles et de la faune. He must notably negotiate a rental lease and an agreement to use public land. The citizen in question submitted his request for a lease in October 2005 and that for the agreement in March 2006. In July 2006, after a number of exchanges with the regional directorates involved and subsequent to having communicated with the department's complaints office, the citizen contacted the Québec Ombudsman to decry the seemingly endless delay.

A review of the file uncovered that the delays involved were in fact outrageous and, furthermore, had an impact on the potential spin-offs—investments and jobs—from the citizen's project. Nevertheless, the department was not solely at fault, as a number of factors came into play.

In some ways, the department could have been more careful and diligent. For example, it would have been beneficial had all of the regional directorates involved—public lands, forest and wildlife—communicated with one another earlier on. They could have quickly exchanged information and harmonized their approaches, particularly regarding contacts with outside parties. Other delays, however, were not entirely or at all caused by the department. One such example was a new requirement, ensuing from recent Supreme Court decisions, whereby Aboriginal communities must be consulted.

The Québec Ombudsman asked the department to ensure that the remaining steps be conducted as speedily as possible. It then proceeded to closely monitor progress in this case with the regional directorates, exchanging with them regarding the possibility of issuing temporary authorizations to enable the citizen to launch his business activities in the short term.

The Québec Ombudsman's actions were successful. In December 2006, the citizen received the necessary authorizations to cut a limited amount of wood and temporarily occupy the territory. One single regional directorate coordinated all subsequent activities and organized a meeting with the citizen to avoid further delays in the granting of permanent authorizations.

The events addressed by this complaint illustrate the importance of coordinated and harmonized actions within a given public agency. In this specific case, the Québec Ombudsman noted that, from the onset, better internal communication and a joint analysis of the file by the three regional directorates would have allowed for faster processing of the request and minimized impacts on the citizen. This logic applies to all situations involving several departments or agencies.

Recommendations

The Québec Ombudsman recommends:

That whenever the Government makes a decision calling for it to exercise its discretionary authority, it should be sufficiently reasoned so that its grounds can be well understood by the citizen. This will have the effect of keeping arbitrary decisions or any semblance of arbitrary decisions to a minimum, while ensuring respect for the principles of *An Act respecting administrative justice*.

That a person be designated as “in charge” whenever more than one administrative unit is involved in a file. This person will be accountable for ensuring that actions are coordinated, and will serve as the primary contact in dealing with the client. Such a recommendation can easily be implemented under the existing legal framework.