

BY EMAIL

March 19, 2026

Council for the Municipality of Brockton
100 Scott Street, P.O. Box 68
Walkerton, ON N0G 2V0

Dear Members of Council for the Municipality of Brockton:

Re: Closed meeting complaint

My Office received a complaint about closed meetings held by council for the Municipality of Brockton (the “Municipality”) on August 12 and September 9, 2025. The complaint alleged that, in the closed sessions, council discussed a land transaction between the Municipality and Bruce County Housing Corporation and that these discussions did not fit within the open meeting exception in the *Municipal Act, 2001* (the “Act”) for acquisition or disposition of land.¹

I am writing to advise that my review has determined that council did not contravene the Act during these meetings.

Ombudsman’s role and authority

As of January 1, 2008, the Act gives anyone the right to request an investigation into whether a municipality has complied with the Act in closing a meeting to the public. Municipalities may appoint their own investigator. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own. My Office is the closed meeting investigator for the Municipality of Brockton.

¹ SO 2001, c 25 [*Municipal Act, 2001*].

My Office has investigated hundreds of closed meetings since 2008. To assist municipal councils, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Council members and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/en/info-public-bodies-and-officials/municipal-government/municipal-meeting-digest.

The Ontario Ombudsman also has the authority to conduct impartial reviews and investigations of hundreds of public sector bodies. This includes municipalities, local boards, and municipally-controlled corporations, as well as provincial government organizations, publicly funded universities, and school boards. In addition, the Ombudsman's mandate includes reviewing complaints about the services provided by children's aid societies and residential licensees, and the provision of French language services under the *French Language Services Act*. Read more about the bodies within our jurisdiction here: www.ombudsman.on.ca/en/make-complaint/what-we-can-help-you/organizations-you-can-complain-about.

Review

My Office reviewed the materials from the meetings on August 12 and September 9, 2025 including the minutes of the closed session and open session. We also spoke with the Municipality's Clerk.

Background

At the time of the August 12 and September 9, 2025 council meetings, the Municipality was advertising municipal land in and around the East Ridge Business Park for sale. The Municipality had already sold parcels of land in the East Ridge Business Park and had posted a second tranche of land on its website for sale at a specific price per acre.

Prior to the August 12, 2025 meeting, the Municipality was negotiating with the Bruce County Housing Corporation (BCHC) to sell 1.5 acres of municipal land adjacent to the East Ridge Business Park for the purpose of developing affordable housing.

August 12, 2025 meeting

During the August 12, 2025 meeting, council held a closed session to discuss three items. In the resolution to close the meeting, one of the discussion items was described as “housing partnership” and the open meeting exception cited was for a proposed or pending acquisition or disposition of land. The complaint to my Office alleged that a representative of BCHC was present during council’s closed session discussion of the “housing partnership” item. As will be explained below, I have previously found that presence of the purchaser during the closed session could mean that the exception does not apply.

The Clerk told my Office that the “housing partnership” item was the Municipality’s sale of land to BCHC. The discussion focused on determining an appropriate purchase price for the land based on information provided by BCHC regarding household income thresholds of residents in affordable housing. The Clerk told my Office that a representative from BCHC was not present during council’s closed session discussion. The closed meeting minutes confirm the Clerk’s recollection.

When council returned to open session, it passed a by-law authorizing the sale of land to BCHC.

September 9, 2025 meeting

During the council meeting on September 9, 2025, council passed a resolution to close the meeting to discuss “Property Appraisals” under the open meeting exception for a proposed or pending acquisition or disposition of land by the municipality. The complaint to my Office alleged that during the closed session, council discussed the Municipality’s sale of land to BCHC, which the complaint said was complete.

While in closed session, council received and discussed a confidential staff report regarding the property appraisals of municipal land that was advertised for sale on the Municipality’s website, not including the land sold to BCHC. The Clerk told my Office that council did not discuss the Municipality’s sale of land to BCHC. The closed session minutes confirm the Clerk’s recollection.

Analysis

The purpose of the exception for acquisition or disposition of land in section 239(2)(c) of the Act is to protect a municipality’s bargaining position during negotiations to purchase or sell land.² The exception does not apply to discussions about speculative land

² *Fort Erie (Town of) (Re)*, 2018 ONOMBUD 2, online: <<https://canlii.ca/t/hvmtm>>.

transactions as the municipality does not have a bargaining position to protect against potential harm.³

Our review confirmed that during the August 12 and September 9, 2025 meetings, council discussed information about pending land transactions involving the sale of municipal land for which the Municipality had a bargaining position to protect.

On August 12, 2025, the Municipality was engaged in a pending disposition of municipal land to BCHC. Council's closed session discussion focused on the price of the land. On September 9, 2025, council discussed property appraisals and the purchase price for municipal land that was advertised for sale on the Municipality's website. Discussions about purchase price fits within the exception for acquisition or disposition of land.⁴ In both instances, the Municipality had a bargaining position to protect involving pending land transactions.

The complaint alleged that a representative from BCHC was present for the closed session discussion on August 12, 2025. I have previously found that if the other party to the land transaction, or the other party's representatives, are present during a closed session discussion about the potential purchase or sale, the exception generally does not apply because the municipality's bargaining position or negotiation strategy is no longer confidential.⁵ My review confirmed that BCHC representatives were not present during the closed session.

The complaint also alleged that council discussed the Municipality's sale of land to BCHC in closed session on September 9, 2025. The complainant told my Office that since the sale was already complete by the time this meeting took place, the matter could not have been considered an ongoing acquisition or disposition of land. The exception for acquisition or disposition of land applies to discussions about pending or proposed transactions. Generally, discussions involving completed land transactions would not fit within the exception, as a municipality does not have a bargaining position to protect. In this case, my review confirmed that council's closed session discussion on September 9, 2025 did not involve the Municipality's completed sale of land to BCHC.

Accordingly, council's closed session discussions about the sale of municipal land on August 12 and September 9, 2025 fit within the exception for acquisition or disposition of land.

³ *Pelham (Town of) (Re)*, 2022 ONOMBUD 9 (CanLII), online: <<https://canlii.ca/t/jpsh5>>.

⁴ *Russell (Township of) (Re)*, 2021 ONOMBUD 19 (CanLII), online: <<https://canlii.ca/t/jlchq>>.

⁵ *Haliburton (County of) (Re)*, 2023 ONOMBUD 16 (CanLII), online: <<https://canlii.ca/t/k1jgt>>.

Conclusion

Council for the Municipality of Brockton did not contravene the *Municipal Act, 2001* on August 12 and September 9, 2025 when it discussed the sale of municipal land in closed session.

The Clerk indicated that this letter will be shared with council and placed on the agenda for the next council meeting, and that a copy will be made available to the public prior to that meeting. At that time, I will also post a copy of this letter on my website at www.ombudsman.on.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Dubé', written over a large, light-colored oval shape.

Paul Dubé
Ombudsman of Ontario

CC: Fiona Hamilton, Clerk, Municipality of Brockton

Cette lettre est aussi disponible en français