

## **Can you still fight City Hall? Well, yes, but almost nobody knows how; ombudsman wants to change that**

By Peter Korn. October 29, 2015.

You have to give Margie Sollinger credit. She listens.

Last month, the city of Portland, thanks to Sollinger, the city ombudsman, made it a lot easier to contest city decisions. Say you think the Water Bureau has overcharged you. Or you've been given a city citation for a few hundred dollars because a Bureau of Development Services inspector, following up on a complaint, found your prairie grass lawn met the code standard for a homeowner nuisance.

So what are you going to do about it? You can call the bureau's city commissioner to complain and hope he or she assigns a staff member to look into your problem. Good luck with that. You can hire a lawyer, except what attorney is going to take a case about a fine of a few hundred bucks?

What you are supposed to do first is tell the appropriate city agency that you want to appeal through the agency's channels, if there is one city department responsible for your problem. Then, if you don't get satisfaction, contact the city ombudsman — Sollinger.

Last year Sollinger noticed city agencies weren't getting nearly as many complaints and requests for hearings as she expected. And it didn't take her long to figure out why.

"It was too expensive," she says.

Most complaints about a city agency end up in front of a hearings officer, and some agencies were charging residents up to \$1,300 for those hearings. That didn't sound like justice to Sollinger.

"If we're going to offer due process, it should be accessible," she says. "Thirteen-hundred dollars for an appeal of an administrative decision to me was an absurd amount to be charging." An appeal to the U.S. Supreme Court, Sollinger says, is just \$300. She looked it up.

Just as important, Sollinger says, was the fact that most Portlanders didn't even know how to contest city decisions because city agencies weren't telling them — at least not in big, bold letters.

All of which left the city's ombudsman to do exactly what she is supposed to do — independently investigate complaints against city bureaus.

"I'm the last resort for when there isn't any other option," Sollinger says. "I am the way that people fight City Hall."

### **Lowering the bar**

In May, Sollinger and her boss, City Auditor Mary Hull Caballero, asked the City Council to require city agencies to let all residents know how they can appeal decisions. And they asked for a new policy requiring agencies to reduce their charges for appeals that go before a hearings officer to "a nominal fee." They prevailed, proving that you can fight City Hall — at least you can if your office is in City Hall.

The new policies went into effect in September and Sollinger can report that they are working. ... She thinks. Since the ombudsman is an independent office, city agencies aren't required to report to her and prove they have changed. But what she does know is that, thanks to her administrative justice proposal, appeals to city agencies that result in a hearing before a hearings officer now top out at \$10.

Also, city agencies have been directed to revise the form letters they send out on city business so that residents are clearly informed of their options for appeal.

This doesn't mean the problem that Sollinger has tried to address has completely gone away. Some city agencies don't use hearings officers. Instead, they handle complaints in-house. And those agencies can still charge up to \$500 for appeals, Sollinger says. She'd like to take on those fees, too, but for now will settle for the changes she made. There are, after all, so many other issues for an ombudsman to look into, and so many complaints to which she must respond.

Hull Caballero says the administrative justice proposal is a perfect example of the ombudsman taking on a citizen conflict and using it to create systemic change for the city. Hull Caballero likes the fact that Sollinger can respond more nimbly to complaints than the more cumbersome city audit process, which tends to focus on big-picture problems.

Neighborhood activists say they like Sollinger's willingness to investigate and confront government bureaucracies. Sollinger is "intellectually rigorous and thorough," according to Mark Sieber, executive director of neighborhood support group Neighbors West-Northwest.

When a west-side volunteer believed a neighborhood association election violated procedure, and then felt that her appeal to the city's Office of Neighborhood Involvement didn't get a proper hearing, Sieber recommended the woman contact Sollinger. Sollinger, Sieber says,

didn't just look at the election. She investigated the regulations governing the ONI appeals process, which are now due to be revised.

"She doesn't act like a judge on the case," Sieber says. "She's actually looking at the whole system. And she's willing to go where the information leads."

### **Looking at the big picture**

The ombudsman's office has successfully taken on Dumpsters blocking sidewalk rights of way and City Hall conflicts of interest. Sollinger says she prefers to pursue complaints that highlight a systemic problem rather than an individual conflict.

Two years ago, Sollinger heard from a low-income homeowner with a lien against her home she simply could not afford. City inspectors had cited her for excessive peeling paint on her house's exterior. The monthly fines she was unable to pay doubled and then tripled until the lien reached \$30,000.

That made no sense to Sollinger, who says the nuisance citation program originally was established as a tool for the city to go after slumlords.

"It's not proportionate to the underlying violation," Sollinger says. "If the reason you didn't paint your house was you couldn't afford it, then no amount of penalties and fees is going to incentivize you to afford it."

Sollinger worked out a deal with Bureau of Development Services officials that reduced the homeowner's fees. Sollinger says she intends to continue highlighting a system that can unfairly burden low-income homeowners.

### **Penalty relief**

Last year, BDS was the subject of the most complaints received by Sollinger, and a quarter of those had to do with liens the bureau had placed on properties. She recently received a complaint from a homeowner who says a \$167,000 lien was placed against his home for poor property maintenance.

If Sollinger decides to look into your complaint and finds it has merit, she generally works out a compromise with the relevant bureau more than 80 percent of the time, she says.

"We utilize persuasion to get folks to do things," she says.

Agencies know that if persuasion doesn't work, she's willing to go public with criticism. "That system works well," Sollinger says.

Not always. In 2013, a number of city employees complained to Sollinger that city whistle-blowers were being punished on the job. Sollinger investigated and found that Portland lacks “a clear and consistent protocol for handling whistle-blower reports.”

Sollinger says she hoped to propose measures to clean up the city’s law so that whistle-blowers would be protected. But that hasn’t happened. She says she’s had to “back burner” the issue, but hopes to propose reforms in the future.

### **Growing capacity**

The ombudsman’s office received 428 complaints last year and provided information, or a referral, or conducted an investigation, in 182 of those. When Sollinger declines to address a complaint, it’s usually because the problem involves a county or state agency, which are not under her purview.

“I say no a lot,” she says.

But she’s also starting to say “yes” more often. She recently was given funding to hire a deputy ombudsman, Tony Green, so now there are two in her office able to investigate complaints.

Green started work in September, which should mean more investigations and more outreach, Sollinger says. Expect to see an ombudsman representative at neighborhood meetings.

Sollinger’s office undertook 34 full investigations last year. In 18 of them, the complaint was substantiated either fully or in part. She made policy recommendations to city bureaus 22 times as a result of substantiated complaints and bureaus accepted her recommendations 18 times.

With the problem of prohibitive appeals fees at least partially addressed, Sollinger says the next big hurdle is letting people know her office exists to help when they feel they’ve been treated unfairly by a city agency.

The word ombudsman, by the way, apparently has its origins in Sweden, where, in 1809, the Swedish parliament started using the term when it set up a special independent agency to protect the rights of citizens. The word itself comes from an Old Norse word, according to Merriam-Webster’s dictionary. Some women in Sollinger’s field prefer ombudswoman. Some agencies refer to the people who hold Sollinger’s position as ombuds. She’d rather not.

“I’ve preferred the status quo,” she says. “To the extent that people have heard of (the ombudsman), I don’t want to make it harder for those people to find me.”

### **Checkmark in the win column**

Portland's "resident gadfly," as ombudsman Margie Sollinger calls herself, responds to Portlanders' complaints and occasionally winds up tackling issues much larger than an individual's conflict. One of Sollinger's most controversial investigations began with a single confidential complainant who told her in 2013 that a construction firm was getting city business to which it had no right.

Portland's social equity contracting program gives preference to contractors who can certify that they are minority- or women-owned. Sollinger's tipster said that Elkins Masonry Restoration had that certification, but was actually just a front for a noncertified firm that wanted in on Portland Housing Bureau projects.

Sollinger started to investigate and discovered the charge appeared to be at least partially true. She also discovered that even if the charge was true, the city had no authority to punish Elkins. In addition, state officials objected to her interfering in their certification program.

That didn't stop Sollinger.

Eventually the Oregon Department of Justice got involved in the case. In March, Elkins agreed to relinquish its certification as a minority- or women-owned business and paid \$15,000 to settle the state's allegations.

Eight out of 10 of the 428 complaints registered with the ombudsman last year came from Portland residents. Twelve percent of last year's complaints were filed by city employees and 8 percent by local businesses.

### **Got a gripe?**

To file a complaint with the Portland ombudsman, call 503-823-0144. Complaints also can be made online at: [ombudsman@portlandoregon.gov](mailto:ombudsman@portlandoregon.gov)

### **Agencies called to task**

Most complaints about Portland city government to ombudsman, in order by number of complaints: 2012-2014:

- 1) Bureau of Transportation
- 2) Bureau of Development Services (building and zoning code)
- 3) Bureau of Management and Finance
- 4) Water Bureau
- 5) Parks and Recreation
- 6) Bureau of Environmental Services
- 7) Police Bureau