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## Information commissioner may ask province to open access to councillors' records

Ann Cavoukian may ask the provincial government to change the law so city councillors are no longer shielded from scrutiny.

**By:** [Daniel Dale](#) City Hall Reporter, Published on Fri Feb 22 2013

Ontario's information and privacy commissioner may ask the province to change the freedom of information law so city councillors are no longer shielded from scrutiny.

"Given the recent orders dealing with councillor records and the City of Toronto, I will definitely consider approaching the government to recommend changes that increase transparency," [Ann Cavoukian](#), the commissioner, said in an email on Thursday. "Of course, any amendments would affect all municipalities in the province, not just Toronto."

The Star [reported Thursday](#) that an adjudicator with Cavoukian's office rejected the newspaper's attempt to obtain documents related to discussions Councillor Doug Ford may have had about bringing an NFL team to Toronto.

Citing earlier decisions from judges and other adjudicators, Frank DeVries ruled that Ford had not been acting as an "employee" of the city and that the records in question were not in the city's custody. He also said that "political" documents are not covered by the Municipal Freedom of Information and Protection of Privacy Act.

Right-to-know activists say sunshine on politicians' documents is necessary for government to be accountable. Toby Mendel, executive director of the [Centre for Law and Democracy](#), said the current exemption is "absurd."

"The law is no longer in line with — I was going to say with 'better' international practices, but it's no longer in line even with decent international practices," Mendel said.

Obtaining the records of politicians, Mendel said, is "absolutely routine in countries like India, Indonesia, Mexico, Bulgaria — all of the new democracies in the world have no problem recognizing this."

The separate laws that cover the [provincial government](#) and [Ontario's municipal governments](#) are both more than 20 years old. Cavoukian said she supports a "full review" of both laws.

Any changes to the laws would have to come from the province. A spokesman for Government Services Minister Harinder Takhar was noncommittal when asked whether Takhar believes

councillors' records should be public.

Cavoukian has not requested a change to the law, John Friesen said in an email. "We would study such a request if one was made," he said.

Mayor Rob Ford's office is subject to freedom of information requests. Three left-leaning councillors interviewed Thursday said their offices should not be exempt.

One of them, rookie Sarah Doucette, said she had not even known they were until hours earlier. "I think people should be able to do an FOI on us," she said. "We're public figures. Why not? I'm not doing anything wrong."

But right-leaning Paul Ainslie, the government management committee chair who has spoken frequently of the importance of openness at city hall, said he does not see the exemption as "a big issue for transparency": the city already has a lobbyist registry that shows which lobbyists councillors have met with, and if people want to know who else he has seen, they can simply call him and ask, he said.

Peter Milczyn, another Ford ally, said he would have no problem with councillors being covered. "It was always a funny ruling that we're not really part of the corporation, that we're just kind of hangers-on," he said.

Ford ally Denzil Minnan-Wong said more public access to councillors' records could "actually discourage people from interacting with their elected officials." People and companies, he said, would be less likely to give councillors useful information on problems with city tenders and other important issues if their correspondence could be obtained by others.

"That level of confidentiality allows a councillor to do his job," Minnan-Wong said.

Asked whether the city could benefit from more light on councillors' activities, he said, "There's a lot of light on councillors already."