



Yukon
Ombudsman
ANNIVERSARY

Lottery process for residential lots

Investigative Report



Lottery process for residential lots

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Pursuant to section 11 of the *Ombudsman Act*

Authority: Department of Energy, Mines and Resources

Authors:

Jason Pedlar, Ombudsman

Amy Steele, Lead Investigator

Sean LaPrairie, Investigator

Adzo Baku, Investigator

Zara Dabana, Investigator

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[Yukon Ombudsman](#)

3162 Third Avenue

Whitehorse, Yukon Y1A 1G3

867 667 8468

YukonOmbudsman.ca

Summary

The Ombudsman's office received a complaint about the use of proxies in the single-family residential land lot lottery process (Lot Lottery). For the purposes of this report, residential lots refer to land that has been declared by the Minister to be residential, as per the *Lands Regulations*¹.

The complainant alleged that the Department of Energy, Mines and Resources (the Authority) was not enforcing the legal requirements pertaining to lotteries under the *Lands Act* and *Lands Regulations* and had not done so for years, leading to widespread, systemic abuse of the system. The Complainant felt that the Authority's failure to enforce the law gave many applicants an unfair advantage at the expense of those who follow the rules.

The Ombudsman decided to investigate the issue pursuant to his authority under section 11 of the *Ombudsman Act*.

The following questions were considered:

1. Is the Lot Lottery process in Whitehorse fair and is it meeting the stated intention of the legislation?
2. Does the Authority have sufficient deterrent and enforcement measures to promote a fair Lot Lottery process?

Residential lots that are classified as residential and sold by lottery, must first be sold to individual applicants who are building a home to live in, as per the *Lands Regulations*. We found that developers² and individual applicants sidestep the *Lands Regulations* by having people illegitimately apply on their behalf (known as proxies) to enter the Lot Lottery.

We found that individual applicants also use the lottery to purchase lots for commercial purposes contrary to the prescribed purpose for selling residential lands to individuals building a home to live in.

We also discovered that the Authority is aware that proxies are entering lot lotteries and is not taking any effective action to prevent it from happening.

Finally, we found that the lottery process is unfair because applicants who are not using proxies in the lottery are less likely to win, and the people who are abusing the system are more likely to win in the

¹ Section 21 of the *Lands Regulations*

² Developer(s) include any builders, contractors, real estate agents.

lottery. Because of this, bonafide qualified individuals feel forced to have friends and family apply on their behalf.

Consequently, we concluded that the complaint was substantiated. The Lot Lottery process in Whitehorse is unfair, and the current legislation does not provide sufficient enforcement mechanisms to ensure its intention is met. The Authority does not adequately prevent or deter the use of proxies in residential lot lotteries, leaving room for unqualified individuals to purchase land lots which should be reserved for qualified individuals who are building their own residences.

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On January 2nd, 2025, an individual submitted a complaint to our office (Complainant) alleging that the Department of Energy, Mines and Resources (Authority) does not properly enforce the law governing the single-family land lot lotteries, leading to widespread and systemic abuse of the system and thereby creating an unfair process (Complaint).

Jurisdiction

Section 11 authorizes the Ombudsman to investigate a complaint received, subject to subsection 12(1). Having considered subsection 12(1), the Ombudsman has the necessary jurisdiction.

Explanatory Note

All section references in this investigation report (Report) are to the *Ombudsman Act* unless otherwise stated.

All references to an ‘authority’ mean an authority as set out in Schedule A of the *Ombudsman Act*.

About Fairness

Ombudsman complaints are analyzed through the prism of fairness when looking at the issues and circumstances that make up each matter. As such, members of the Canadian Council of Parliamentary Ombudsman (CCPO) use the 2022 CCPO publication [Fairness by Design: An Administrative Fairness Assessment Guide](#) (Fairness by Design) to help determine whether a program’s decision-making process is administratively fair in design and delivery. For this reason, reference to this fairness assessment tool is included in every Yukon Ombudsman investigation report.

‘Fairness’ is generally comprised of three facets: fair process, fair decisions, and fair service. Depending on the complaint, these components may overlap, or only certain ones may be relevant. Fairness by Design provides the following public administrative context and standard for each component.

Fair Process

Public organizations must follow fair decision-making processes when making decisions that directly impact a person, group of people or organization. This includes meeting the duty of procedural fairness owed to those impacted by a decision.

Fair Decisions

Public organizations must make fair decisions. Fair decisions follow the applicable rules, consider the individual circumstances and case, are equitable and reflect a fair exercise of discretion. An organization should ensure it has policies and processes that support making fair decisions.

Fair Service

Public organizations must treat people fairly. Fair service is about how people are treated when they access public programs and services. It includes ensuring [the] organization provides respectful, accessible and responsive service and is accountable to the public it serves.

Statutes and Regulations Cited

[Ombudsman Act](#), RSY 2002, c.163

[Lands Act](#), RSY 2002, c. 132

[Lands Regulations](#), O.I.C. 1983/192

Cases and Documents Cited

Cases

None cited.

Documents

[Media Release](#), #24-530, “Government of Yukon introduces interim reforms to the land lottery process to better serve Yukoners” (November 21, 2024)

[What We Heard](#), Government of Yukon (April 2025)

Background

[1] The Yukon [Lands Act](#), established in 1983, guides the process for classifying and selling residential land. When land is classified as residential under the [Lands Regulations](#) specific process is to be followed for the single-family land lot lottery (Lot Lottery) with the goal of providing land to Yukoners who want to build and live in their own houses.

[2] The Authority has overseen the Lot Lottery since 2019. Previously, the Yukon Housing Corporation oversaw it.

[3] The Yukon Government (YG) sells most of the land slated for development throughout the territory. This is unique because in most jurisdictions, municipalities or private entities sell land within municipal boundaries rather than the respective provincial or territorial government.

[4] The Authority uses the Lot Lottery because the process is outlined in the governing legislation and, in principle, a lottery adheres to the standards of administrative fairness.

[5] In recent years, concerns have been raised about the fairness of the Lot Lottery process in Whitehorse.

[6] Between May and August 2024, YG engaged in public consultation on potential changes to the Yukon public lands legislation and provided feedback in a document called [What We Heard](#). The document contained mixed public comments on the existing Lot Lottery process in Whitehorse.

[7] On November 21, 2024, YG issued a [Media Release](#) promising interim reforms to the Lot Lottery process. To date, no reforms have been implemented.

[8] Over the course of this investigation, we interviewed 19 people and received approximately 10 hours of oral testimony. We spoke to applicants, developers, Authority employees, and employees of other jurisdictions where lot lotteries are administered. We also reviewed documents and other evidence provided by the Authority and the Complainant. Although the Authority conducts Lot Lotteries throughout the Yukon, our investigation focused on lotteries in Whitehorse as it appears to be where the most fairness concerns arise.

Relevant Law

[9] Section 3 of the [Lands Act](#) sets out the eligibility criteria concerning the disposition of Yukon lands³—

(1) Subject to this Act and the regulations, the Minister may

(a) sell or lease Yukon lands; or

(b) grant a right-of-way or easement with respect to Yukon lands, to any individual who has reached the full age of 19 years or to any corporation.

(2) The Minister may dispose of Yukon lands only after

(a) the Minister has received an application with respect to those lands; or

(b) tenders for those lands have been called for by public notice.

[10] Section 4 of the [Lands Act](#) sets out the means by which Yukon land can be sold —

If the Minister intends to sell Yukon lands, the Minister may enter into an agreement for sale of those lands with the proposed purchaser, which agreement shall contain any terms and conditions the Minister considers appropriate.

³ “Yukon lands” is defined in section 1 as meaning properties to which [the [Lands Act](#)] applies.

[11] Section 23 of the *Lands Regulations* sets out the preferential order for selling Yukon residential lands to the general public –

Lots which are available for sale to the general public shall be sold at the first offering in the following preferential order:

(a) to qualified individuals for their own residential purposes;

(b) to other registered applicants;

(c) by general sale.

[12] Section 24 of the *Lands Regulations* sets out the criteria to be a qualified individual –

For the purpose of the sale of residential land a qualified individual is one who:

(1) is applying to purchase a lot for the purpose of constructing a residential dwelling for the sole purpose of providing accommodation for themselves.

(2) does not hold an agreement to purchase from the Commissioner a residential lot in the community or municipality where the lot he applies for is located.

[13] Section 28 of the *Lands Regulations* sets out –

Residential land shall be sold in lots

(a) through lotteries conducted in accordance with section 28.1;

(b) on a first come first served basis in accordance with the following procedures

(i) notice of the commencement of the sale naming a day, time and place shall be given not later than the third day before the day of the sale,

(ii) following notice of the commencement of the sale qualified and other applicants shall register, at a designated location, in a sequential manner based on “first come-first served”, and

(iii) the lots sold on the day of the sale will be sold to qualified applicants in the order in which their names are registered prior to the sale; or

(c) by any other public method

[14] Section 2 of the *Lands Regulations* defines public method as “a method that provides both reasonable public notice in advance of the intended sale and a fair opportunity for all potential purchasers to acquire the lot or parcel.”

[15] Section 28.1 of the *Lands Regulations* sets out:

(1) Residential lots sold by lottery shall be sold only to qualified individuals who have submitted an application together with a downpayment deposit of \$300.00.

(2) If the individual is not chosen in the lottery the downpayment deposit shall be returned.

(3) If the individual is chosen in the lottery and the individual does not choose a lot within 24 hours of being notified, the downpayment deposit is forfeited to the Government of the Yukon and the individual loses their right to choose a lot.

Issues

[16] There are two issues for investigation.

- 1) Is the Lot Lottery process in Whitehorse fair and is it meeting the stated intention of the legislation?
- 2) Does the Authority have sufficient deterrent and enforcement measures to promote a fair Lot Lottery process?

Issue 1: Is the Lot Lottery process in Whitehorse fair and is it meeting the stated intention of the legislation?

Overview

[17] Yukon's *Lands Act* and *Lands Regulations* govern the sale of land in the territory.⁴

[18] Under this legislation, the Minister of Energy, Mines and Resources⁵ may sell Yukon land to any individual who is 19 years or older or to any corporation. They may also sell land after receiving an application to buy the land or after public tenders have been issued. The vehicle for selling this land is an agreement for sale (AFS), which may include any terms and conditions that the Minister considers appropriate.

[19] Residential lots which are available for sale to the general public must first be sold to qualified individuals for their own residential purposes. As defined by the legislation, qualified individuals are those persons who intend to build a house and live in it (Qualified Individual). In addition, they cannot

⁴ This Report acknowledges that, under the *Territorial Lands (Yukon) Act*, YG can sell, lease, or dispose of territorial lands as defined by that legislation. However, the land referred to in this report is limited to land defined under the *Lands Act*.

⁵ Under *O.I.C. 2014/174* the Minister is the Minister responsible for the Department of Energy, Mines and Resources.

have an existing purchase and sale agreement to buy another residential lot in the same community or municipality where the lottery is being held.

[20] There are three ways by which the Authority can sell Yukon land; a Lot Lottery, a first come first serve basis, and any other public method.

[21] If the Authority decides to sell residential lots by a Lot Lottery, then only Qualified Individuals may apply.

Agreements for Sale

[22] Every applicant who wins a lot in the Lot Lottery must sign an AFS, which is a legally binding contract between the buyer and YG, pursuant to the *Lands Act* and the *Lands Regulations*. The AFS is for a five-year term during which applicants must meet certain building and residency requirements within three years.

[23] Such requirements have varied over the course of the Lot Lottery process. The most recent AFS used in the 2025 Whistle Bend Lot Lottery required lot winners to provide proof of occupancy, conditional occupancy approval, or complete three types of inspections (*i.e.*, electrical rough-in; framing, insulation and vapour barrier; and plumbing rough-in).

[24] The AFS also requires a lot winner to pay YG the full cost of the lot within five years, at either five per cent interest or an interest rate 2.5 percentage points above the bank rate, whichever is higher, during the same five-year period.

[25] Once the lot winner has met all the AFS's legal terms and conditions, YG then transfers the fee simple title to them.

[26] Currently, the AFS contains no requirement for a person who obtains such title to keep it in their name for any specific time. As soon as they obtain title, they can transfer it to another party by means of the Land Titles office.

Lot Lottery policies, processes, procedures, and guidelines

[27] The Authority uses several documents in a Lot Lottery. The Lottery Package and Lottery Guidelines are for external purposes—aimed at those applying for the lottery—and others are for internal purposes.

Lottery Package

[28] The Lottery Package contains specific information about lots for sale, land price, and method of sale, including the eligibility criteria.

[29] It states that applicants must submit a Land Lottery Application Form, a \$300 administrative deposit and a \$26.25 non-refundable application fee. They must also be at least 19 years of age and present valid government-issued photo identification at the time of the application. In addition, only one application can be submitted per person, and the individual cannot have an active AFS with YG for another residential lot in a community or municipality where they are applying for a new lot.

[30] The Lottery Package also states that applicants must comply with all requirements in the lottery documentation, as well as follow all applicable territorial and federal laws, regulations, and other conditions that may apply.

Lottery Guidelines

[31] The Lottery Guidelines outline process, procedure, and instructions for applicants. The Guidelines state that the Lot Lottery is a method of sale used to distribute lots available for ownership for the first time through a fair process.

[32] It specifies several things, such as how applicants entering the lottery cannot apply as a co-applicant on a second application or act as an agent for someone else. If they apply for themselves but also act as an agent for another applicant, they are disqualified.

The Lot Lottery process

[33] The most recent Lot Lottery occurred in September 2025. The Authority identified it as the "Whistle Bend Phase 9 Lottery (2025-Y02)" (Whistle Bend Lottery) in which 55 single family residential lots were sold.

[34] Under the Whistle Bend Phase 9 Lottery Guidelines, applicants had two weeks notice to apply and select ten lots ranked in preference from one to ten. The Authority assigned each applicant a ticket which was placed in a secure barrel. On the day of the lottery draw, the Authority randomly drew tickets from the barrel.

[35] Applicants with drawn tickets were offered the first available lot from their selection list. Tickets were drawn until all lots were allocated. Additional tickets were drawn to create a draw list of applicants who would be contacted if any lots were not accepted in the first round of the Lot Lottery.

[36] The Lot Lottery draw was streamed online, and the results were available at the application office and online.

[37] Successful applicants were given 24 hours to accept the lot. If that did not occur, the Authority offered it to the next successful applicant who had selected the lot. If no successful applicants accepted the lot offered, then the Authority may sell the lot to the general public at the Authority office.

[38] Successful applicants who accepted the lot had to sign an AFS and pay a 20 per cent down payment for the cost of the lot within 14 days or forfeit the lot.

Is the Lot Lottery process in Whitehorse fair and is it meeting the stated intention to provide lots to *Qualified Individuals for their own residential purposes as prescribed under the Legislation?*

[39] Through the Lot Lottery process, the Authority is legally bound by the *Lands Regulations* to only sell lots to Qualified Individuals. A Qualified Individual is defined as a person who is applying to purchase a lot to construct a residential dwelling for the sole purpose of providing accommodation for themselves. As such, if the Authority used the Lot Lottery to sell land to developers or other individuals who plan to build a house to sell, then this would be a violation of the *Regulations*.

[40] In order to comply with the *Lands Act* and *Lands Regulations*, the Authority has created eligibility rules for applicants. One of those rules is that people can only submit one application in each lottery.

[41] Witness testimony from applicants, developers, and the Authority confirmed that developers and individual applicants have other people submit applications on their behalf (proxies) to try to increase their chances of winning a lot.

[42] These proxies are illegitimate applicants who have no intention of building these houses or living in them. Rather, they are applying so a developer or other individual can obtain a lot, build a house, and sell it. Or in the case of legitimate individual applicants, proxies are used to increase their chances of winning a lot.

Developers' use of proxies:

[43] Witness interviews revealed that it is commonplace for developers to ask other people to apply to the lottery on their behalf. Developers might ask friends, family, employees and their spouses, their subcontractors, or real estate agents to enter the lottery on their behalf. Employees and subcontractors may be motivated to act as proxies to ensure that they have future employment. Real estate agents might be willing to act as proxies as they would earn commissions when the house is eventually sold.

[44] The number of proxies that developers use varies. Some developers use 40 or 50 proxies in one lottery.

[45] Some developers offer financial gifts to proxies as compensation. One developer stated they gave \$1,000 in cash payments and another offered \$150 gift cards.

Individual applicants' use of proxies:

[46] Some applicants who want to live in the house that they build ask friends and family to apply as proxies to increase their chance of winning a lot because they are aware that many others do the same, lowering the chance of an individual applicant winning a desired lot in the lottery.

Individuals enter the lottery to try to make a profit:

[47] We heard that some individual applicants enter the lottery to make a profit from developers. If they win a lot, they seek developers who will pay them for the lot. At least one developer stated that they paid an individual applicant thousands of dollars for a lot.

[48] Other individuals enter the Lot Lottery to obtain lots in order to build investment or commercial properties, never intending to live on the property.

Applicants who win a lot cannot afford to build, and so sell their lot to developers:

[49] Some individual applicants win a lot fully intending to live in the house that they build. However, they may experience challenges securing financing and fear losing their 20 per cent down payment if they cannot fulfill the terms of their AFS. These individuals may reach out to developers who buy the lot and compensate them for costs incurred, but with no additional profit.

How developers ensure title is transferred:

[50] Witness testimony also revealed how developers or individual applicants obtain title of lots from proxies.

[51] When proxies win a lot, they must sign the AFS, which is a legally binding document. The proxy is then legally bound to complete all conditions in the contract, including paying the full cost of the lot and meeting all building requirements.

[52] We learned that the Authority ensures that only the applicant who wins a lot can sign the AFS and that title is only transferred to the signee when all legal conditions are met.

[53] To get around this, those using proxies often have legal agreements drafted specifying that the proxy must transfer title of the lot to the developer or individual applicant as soon as it is received.

[54] Meanwhile, during the period when the conditions of the AFS must be met, the developer or individual applicant pays all costs involved prior to the proxy applicant receiving title of the land. This includes the application fee, \$300 deposit, the down payment, all the construction costs, the cost of inspections, and the remaining cost of the land.

[55] Witnesses informed us that due to the high demand for housing, some developers already have buyers for the property arranged before their proxy gains title of the property. In those cases, as soon as the title is granted to the proxy, title is immediately transferred to the developer, and finally to the designated buyer. In these cases, the proxy would not occupy the house for even a day.

The Authority is aware of the use of proxies:

[56] The Authority acknowledged that the use of proxies by both developers and individual applicants is well-known.

[57] Witness testimony from Authority staff revealed that, especially in the last year, the use of proxies has become “blatant”, to the point of being “glaringly obvious” and “out in the open.”

[58] Some examples provided include:

- A successful applicant paid the down payment with a bank draft in the name of a known Whitehorse developer.
- An applicant accidentally left written instructions on how to go about acting as a proxy for a developer at the Authority office.
- Developer employees drop off application forms wearing clothing branded with the developer’s company logo.

[59] Authority staff know that developers and individual applicants are using proxies to eventually gain title, but they are not privy to the specifics of how this happens. Authority staff advised that they do not see the legal agreements drafted behind the scenes between the proxy and the developer, or the proxy and the individual applicant.

Analysis:

[60] The Authority is indirectly selling single family lots to developers through land lotteries, by selling to proxies acting on behalf of developers.

[61] The Authority is also selling lots to proxies who are not Qualified Individuals as defined in the legislation but rather, who are applying on behalf of otherwise legitimate individuals who want to increase their chance of winning a lot so they can build a house to live in.

[62] The Authority is clearly aware that many proxies are participating in the lottery, and in effect, selling land in a manner contrary to the residential classification in section 23 of the [Lands Regulations](#).

Lot Lottery fairness

[63] We spoke to some Qualified Individuals who entered the lottery hoping to build a house for themselves to live in.

[64] A couple of the people we spoke to won lots without using proxies; there is evidence that sometimes the lottery works as it is supposed to. One of the applicants we spoke to was able to build and live in two different houses from separate lot lotteries.

[65] However, there are applicants, in addition to the complainant, who feel the system is being exploited by developers, and is therefore unfair to individual applicants who want to build a house to live in, which the Lot Lottery is specifically prescribed for by the *Lands Regulations*.

[66] One witness we spoke to wanted to build a house in the neighbourhood they currently lived in and where their kids went to school. They were excited when the Authority made lots available under the Lot Lottery as they aspired to design and build an energy efficient house that met their specific family needs.

[67] The individual applied but did not win a lot and expressed feeling “sad and disappointed.”

[68] However, when the individual went to pick up their deposit, they stated they saw about ten pages with the same names listed as the people eligible to pick up application deposits on behalf of unsuccessful applicants. The individual believed these signified people who had acted as proxies for developers. The individual also noticed a few people wearing what appeared to be company sweaters from developers.

[69] The applicant described their frustration about developers accessing the lottery because “nobody’s enforcing the rules.” The applicant feels that it is an unfair process because the rules are clear that the lottery is for individuals to build a house they will then live in, but there is no one preventing or enforcing this rule.

[70] The Authority received comments that the Lot Lottery was unfair during public consultation on potential new public lands legislation that was conducted between May and August 2024. The Authority published a document called [What We Heard](#). It contained the following comments about unfairness in the lottery:

- “It feels like the current lottery system is rigged by certain people who get family and friends to apply for lots on their behalf.”
- “If the lottery system is continued, we need to ensure that all lots do not end up in the hands of developers who reap all the benefits of developing public land instead of the public.”
- “We all know that contractors submit multiple bids through their employees, friends, or relatives. Why is this allowed? The average person does not have a fair chance.”

[71] We found however that the Authority had not taken any effective action since receiving those responses.

Fairness

[72] In considering the fairness of the Lot Lottery, it is clear that the Authority is doing some things right to ensure a fair process. For example, the physical lottery draw, which was outlined in an earlier section of this report, appears to be a fair process.

[73] The Authority has also created internal documents to provide staff guidance on how to deal with specific situations during lotteries, including what would invalidate or disqualify an application form, closing time of lotteries, and when applications could be amended or withdrawn. Having such policies helps to ensure people are treated equitably and fairly.

[74] The Authority appears to enforce some eligibility requirements such as ensuring applicants are 19 years old, have valid government-issued photo identification, and that they do not have any active land sale agreement with YG at the time of the application. The Authority also enforces the requirement that applicants can only submit one application per person in so far as the Authority does not allow the same name to enter into the lottery more than once. However, in reality, applicants submit multiple applications for themselves through the use of proxies, and the Authority is not preventing this.

[75] Eligibility requirements include complying with all requirements outlined in the lottery documentation and adhering to all applicable territorial and federal laws, regulations, and other conditions with respect to the lots purchased.

[76] The requirement for the Authority to sell land to Qualified Individuals solely binds the Authority. It is therefore the Authority's responsibility to create effective legal mechanisms to prevent applicants from using proxies and to take effective enforcement measures if anyone is found doing so. The Authority has not done this.

[77] The extensive use of proxies in single family land lotteries is clearly unfair to Qualified Individuals who follow the lottery rules as they have a lower chance of winning a lot.

[78] The [Lands Regulations](#) clearly states that if the Authority sells residential lots via a lottery, they must be sold to Qualified Individuals for their own residential purposes. Qualified individuals are defined as a person who is applying to purchase a lot to construct a residential dwelling for the sole purpose of living in it.

[79] The Authority uses a lottery process to do this because there is more demand than supply, and the Authority wants to ensure a fair allocation of land.

[80] The Authority's goal is to fairly allocate land as was evident in the 2025 Lottery Guidelines which explicitly state "a land lottery is a method of sale used to distribute lots...through a fair process."

[81] However, the Authority estimated in 2024 that 84 per cent of the people using the Lot Lottery were developers and not Qualified Individuals.

[82] Our interviewees who are familiar with the lottery process estimated that maybe five per cent of applicants were people who intended to live in the house they build.

[83] During our interviews, it became clear that the use of proxies by both individuals and developers to increase the odds of winning a lot is pervasive and that developers have become increasingly blatant about their participation.

[84] Developers understand they are not allowed to enter the lottery, as they are not Qualified individuals, but many are doing so.

[85] Mathematically, the more proxies that enter a lottery on your behalf, the greater the odds that you will win. Applicants who are following the rules have less of a chance to win.

[86] Meanwhile, legitimate applicants also have a lower chance of winning their highest ranked lot because, due to the use of multiple proxies, their name will likely be called later in the lottery, if at all.

[87] When an individual applicant also uses proxies, and they and their proxies win lots, the applicant can then choose the more desirable lot. By using proxies, the individual applicant therefore not only increases their chance of winning a lot, but they also increase their chances of winning a more desirable lot.

[88] The use of proxies also potentially benefits bigger developers at the expense of smaller developers as they can fund more proxies to participate in the system and therefore win more lots. This could be relevant information for the Authority if it decides to reform the lottery to create a single-family land lot lottery for developers and is interested in ensuring fairness amongst developers.

[89] The Authority is legally required to only sell lots to Qualified Individuals under the residential classification of the *Lands Regulations*. However, the Authority is aware that proxies for developers and individual applicants are entering the lottery, and the Authority is not taking any preventative or enforcement action to prevent this.

[90] When considering all the evidence, it is clear that the lottery is not a fair process due to multiple participants gaming the system and making it significantly harder for legitimate applicants to win a lot.

[91] The Authority explicitly states in its Lottery Guidelines that the lottery is intended to create a “fair process” when selling land. In reality, the lottery is not a fair process. The *Lands Regulations* require the Authority to only sell to Qualified Individuals when selling residential land. Meanwhile, developers and individuals who are not allowed to apply in lot lotteries, are getting lots by using proxies.

[92] If the Authority’s priority has shifted from providing land to individuals to build a house they live in to providing land to developers to build single family houses, then the *Lands Regulations* should be changed.

[93] In conclusion, the Authority’s Lot Lottery process in Whitehorse is unfair under the current laws governing the sale of residential land.

Is the Whitehorse lot lottery process meeting the stated intention of the legislation?

[94] The *Lands Regulations* clearly state that the purpose of the Lot Lottery is to provide lots to Qualified Individuals for their own residential purposes. By indirectly selling residential land to developers and other individuals, by way of proxies, the Authority is not meeting the intention of the *Lands Regulations*.

Conclusion: Issue 1

Is the Lot Lottery process in Whitehorse fair and is it meeting the stated intention of the *Legislation*?

[95] The Lot Lottery in Whitehorse is not a fair process as proxies are flooding the lottery. This goes against the intention of the legislation which is to provide lots to Qualified Individuals for their own residential purposes.

[96] The widespread use of proxies reduces the likelihood that an applicant who is following the rules will win a lot or that such an applicant will win their highest ranked lot out of their list of ten lots.

[97] The Authority has a legal obligation to follow the requirements in the *Lands Regulations* and only sell land to Qualified Individuals. By not implementing any effective measures to prevent proxies, the Authority is failing to ensure procedural fairness to legitimate applicants.

[98] The Authority has advised that they are unable to take any preventative or enforcement actions against proxies to make the single family land lot lottery process fair and meet the intention of the

legislation because the current *Lands Act* and *Lands Regulations* do not contain any enforcement provisions.

[99] It is however our view that as the responsible Authority, they have the obligation to push for legislative changes, where the need arises, to ensure the Lot Lottery process is fair.

Issue 2 – Does the Authority have sufficient deterrent and enforcement measures to promote a fair Lot Lottery process?

[100] Prior to considering whether the Authority is taking sufficient action to prevent proxies from entering the lottery, it is important to first consider why developers and individual applicants are using proxies. Understanding why people are using proxies may be helpful in coming up with solutions to prevent it.

Lack of land for developers and high demand for single family houses:

[101] Developers informed us that there is no way for them to get land to build single family houses except to enter the Lot Lottery by way of proxies.

[102] Currently, in the Yukon, most land is developed and sold by YG. Meanwhile, the *Lands Regulations* require that residential lots must be offered to Qualified Individuals. The Authority sells all single-family residential lots via a lottery as there is generally more demand than supply in Whitehorse.

[103] The only time developers would have access to these lots is if there are more lots available than applicants in a specific lottery. If this were the case, the Authority could sell the unsold lots to the public over the counter. This rarely happens.

[104] We heard from one witness that there is so much demand for over the counter lots that people have camped outside of the Authority to secure a lot for a developer. If they cannot buy a lot over the counter, developers only have two other options: build single family houses on leased First Nations land or on privately owned land that is rare to come by in Whitehorse.

[105] Meanwhile, developers explained there is high demand for single family houses in Whitehorse due to a rapidly growing population. It is a lucrative market, and developers want to make a living and provide steady employment to their workers and subcontractors.

Multi-family tender process does not solve the problem:

[106] The Authority offers multi-family land lots to developers to build condos or townhouses via a tender process. However, we heard that many developers do not have capacity to build multi-family

homes or are unhappy with the tender process that involves a sealed bidding process with lots going to the highest bidder. We heard it is much more expensive for developers to bid in the multi-lot tendering process than to use proxies to secure lots in the single-family land lot lottery.

Lack of rule enforcement by Authority:

[107] Developers also talked about the Authority's lack of enforcement being a factor in their decision to enter the Lot Lottery despite knowing that they are not permitted to do so. Developers pointed out that many people flout the rules because there are no repercussions to their actions.

[108] Some developers described feeling uncomfortable using proxies to enter the lottery but felt they needed to do so to remain competitive in the single-family housing market.

[109] One developer described the lottery as a "broken system." Another asked why developers are "the bad guy", pointing out that the Authority hasn't created any legal avenues for developers to build single family homes and "nobody stops you" from using the Lot Lottery.

[110] Developers advised that the Authority is aware that they are using proxies and there is a sense that this has become an acceptable practice.

[111] One developer described it in the following way: "I think at one point we tried to keep it a little sneaky, but the cat's out of bag, so I don't think we keep it all covert anymore."

[112] Based on the above, it is evident that the lack of available land for developers to build single family homes, the high demand for single family housing, and the lack of enforcement measures are major factors in the use of proxies by developers.

Reasons why individual applicants use proxies:

[113] We heard that some individual applicants are aware that there is widespread use of proxies in the lotteries, and so they decide to increase their odds of winning by using proxies as well.

[114] Consequently, the more people use proxies without negative repercussions, the more motivation there is for others to do the same to increase their odds of winning a lot. This creates unfairness for people who do not use proxies as they are less likely to win.

Challenges for the Authority in preventing proxies from entering the lottery:

[115] The Authority's position is that it administers the lottery in accordance with the [Lands Act](#) and [Lands Regulations](#). However, when asked what it was doing to ensure proxies do not enter the lottery,

the Authority was unable to describe any specific measures it employs save by ensuring the successful applicant was the same one who signed the AFS and then also received title once the contract terms were met (home built and payments made).

[116] These preventative measures have not proved to be effective and do not help meet the intent of the legislation, which is to sell to Qualified Individuals for the purpose of building their own residential homes.

[117] Authority staff informed us that even if they suspect that certain applicants are acting as proxies, they cannot reject their applications. Applications are taken at “face value.” Staff “turn a blind eye” despite being aware that developers or individual applicants are using proxies because they do not have any tools, policies, or procedures to stop it.

[118] We heard from some staff who found the blatant use of proxies by developers to be “disconcerting” and they “struggle with the abuse (of the system) that is happening.” Some staff have the sense that there is no government desire to prevent developers from using proxies as there is a need for homes to get built as quickly as possible.

[119] Some Authority staff also stated that overall, they feel that the lottery is working to the benefit of Yukoners because lots are being sold and houses are being built.

[120] One Authority employee described the lack of available land to build houses and the high demand for housing as the “giant elephant in the room” which leads to developers using proxies in the lottery.

[121] Authority staff also identified the challenge of outdated legislation and regulations that are highly prescriptive and therefore limit staff’s ability to meaningfully adjust the lottery process.

Analysis:

Authority is effectively enforcing some aspects of the lottery:

[122] The Authority appears to enforce certain requirements specified in the Lottery Package, including requiring applicants to show government-issued photo identification, be at least 19 years old, and that they do not hold an active agreement for sale with YG for another residential lot in Whitehorse. As well, the Authority has internal guidelines and policies in place to prevent a person from entering the lottery more than once.

[123] The Authority also ensures that a person who wins a lot is the same person who signs the agreement for sale. That person is then legally bound to complete the conditions of the sale agreement.

They are not allowed to remove their name from the agreement of sale and they only get title when all the conditions are met.

[124] The Authority appears to be properly enforcing the conditions in the agreement for sale. Title is not granted until these conditions are fulfilled.

Authority is not effectively preventing proxies from entering lottery:

[125] Although only one application can be submitted per person, witnesses have informed us that some developers have asked 40 to 50 separate people to submit applications on their behalf. Those applications would, of course, be in the name of individual applicants and so it is difficult for the Authority to prove what is going on.

[126] There is one clear indication of when individuals are likely applying as proxies on behalf of a developer. On the application form, an applicant can authorize a specific person to pick up the application deposit if they do not win a lot.

[127] We saw multiple applications where developers were listed as the person to pick up the deposit. The Authority does not view this as an effective tool to control the lottery, but they agree that it helps to understand who proxies are at the end of the lottery process.

[128] For the Lot Lottery process to be fair, the Authority has a responsibility to create legal mechanisms to ensure that people who win lots are not proxies. The Authority must also ensure it has effective measures in place to identify and address non-compliance.

[129] The Authority was asked what enforcement measures it takes to prevent proxies from entering the lottery and was unable to provide any examples because the current legislation does not provide for enforcement mechanisms. The Authority is aware proxies are being used but doesn't know how to prevent this.

Authority has abandoned certain deterrent measures:

[130] In recent years it appears that YG has eliminated rather than increased deterrent measures to ensure that lots are sold in accordance with the law.

[131] In the 2012 Lot Lottery, which was overseen by Yukon Housing Corporation (YHC), the application form contained a clause that required a person to confirm that their sole purpose for purchasing the lot was to provide accommodation for themselves. This was later removed from future applications. It is unclear why YHC removed this clause from the application form.

[132] Another example includes the 2015 Lot Lottery administered by the YHC in which applicants were required to sign a statutory declaration in addition to signing an application form. The statutory

declaration required applicants to swear an oath in front of a notary public that they were purchasing land solely to build a house for themselves to live in.

[133] As well, applicants in the 2015 lottery had to agree to a one-year residency clause requiring them to live on the property for at least a year after they received title to the land. YHC stopped requiring statutory declarations or the one-year residency clause after 2015.

[134] When statutory declarations were used, some designated Authority employees would notarize the documents. We were told that employees became very uncomfortable as they believed many people were lying and were in fact acting as proxies. It is unknown if this is the reason why statutory declarations were discontinued.

[135] If this is the reason the Authority stopped using statutory declarations it raises a question about whether the Authority should have attempted to take enforcement action against people whom they believed had misrepresented on statutory declaration forms, rather than deciding to stop using the declarations.

[136] Again, the [Lands Regulations](#) and the AFS do not explicitly provide any enforcement measures or offences which may be used to penalize those who are found to act as proxies or use land for purposes other than personally living on it.

[137] We heard some evidence that the statutory declarations had a deterrent effect. One of the developers told us that when the statutory declaration existed, it deterred some people from agreeing to be proxies for them.

[138] We asked the current Authority, the department of Energy, Mines and Resources, why they no longer used the clauses in the application form and statutory declarations and they were unable to explain why. Removing these legally binding requirements may have contributed to an increase in the use of proxies because there is less of a legal deterrent for these individuals.

Current lottery documents do not explicitly state only Qualified Individuals can apply:

[139] When the Authority was asked what legal mechanisms it is currently using to ensure compliance, it pointed us to language in the Lottery Package and emphasized that applicants are expected to have read and understood the eligibility requirements when submitting their application forms.

[140] Under the eligibility requirements header of the Lottery Package for the 2025 Whistle Bend lottery, it states that applicants must “comply with all requirements outlined in the lottery documentation” and “adhere to all applicable territorial and federal laws, regulations, and other conditions with respect to the lots purchased in this lottery.”

[141] The Lottery Package also states that applicants “are responsible for reading and understanding all lottery documentation prior to submitting an application and for being familiar with the lottery requirements and process.” The Lottery Package explains that “lottery documentation” includes information in the Lottery Package, Lottery Guidelines, reports, sample AFS, and zoning information.

[142] After reviewing the “lottery documentation” referred to above, none of the documents from the 2025 lottery explicitly state that only “Qualified Individuals,” defined in the *Lands Regulations* as a person who purchases a lot for the purpose of constructing a residential dwelling for the sole purpose of providing accommodation for themselves, can apply. It is therefore unclear how the Lottery Package discourages proxies from applying in the lottery or helps the Authority take enforcement action against this practice.

Lottery Guidelines:

[143] The 2025 Lottery Guidelines (part of the lottery documentation) include the following under the heading “Terms and Conditions”:

45. By submitting an application, the applicant represents and confirms to the Government of Yukon, with the knowledge and intention that the Government may rely upon such representation and confirmation, that the application has been prepared without collusion or fraud and in fair competition with other applications from other applicants.

48. An applicant represents and warrants, by submission of an application, to being aware that the lottery and Agreement for Sale are subject to the conditions and provisions of the Lands Act, R.S.Y. 2002, c. 132, and any regulations to such Act, as they may be amended from time to time.

[144] These paragraphs appear to be an attempt by the Authority to prevent proxies from participating in the lottery. However, it is unclear if lottery applicants would be legally bound by them.

[145] Unlike application forms or AFS’, applicants do not sign Lottery Guidelines. It may be difficult for the Authority to prove the applicants read, understood, and agreed to provisions in the Lottery Guidelines and are therefore legally bound by them. If the Lottery Guidelines are not legally binding, this would prevent the Authority from being able to rely on the Lottery Guidelines when attempting to take any enforcement or legal action against proxies.

Application forms:

[146] The application form used in the 2025 Whistle Bend Phase 9 Lottery includes the following clause:

I/we have read, understand and agree to comply with the terms of this land lottery sale.

[147] The application form does not contain any term specifying that an applicant must be a Qualified Individual. Without such a term in the application form, the Authority does not appear to be creating any

legally binding obligation on the applicant to be a Qualified Individual. The Authority cannot take enforcement action unless applicants are under legally binding obligations.

Agreement for Sale (AFS):

[148] The AFS used in the 2025 Whistle Bend lottery does not include a term that an applicant must be a Qualified Individual in order to participate in the lottery. Therefore, it appears this is not a legally binding obligation under the AFS. Therefore, the Authority would be unable to take any enforcement action to prevent proxies from participating in the lottery due to this term being missing.

Authority could make documents legally binding that applicants sign:

[149] As applicants must sign these documents, it might be easier for the Authority to add a specific term to application forms that only a Qualified Individual can apply. The Authority could also add this term to the AFS to establish that the applicants have read the term, understood the term, and agreed to it, and would therefore be binding on the applicants. If the term is clearly legally binding on applicants, this could help the Authority initiate legal proceedings against people who acted as proxies or used the lottery for unintended purposes.

Authority could implement legal mechanisms used by other jurisdictions:

[150] Authority staff have researched what other jurisdictions do to regulate their lot lotteries but have not incorporated any of these legal mechanisms. The Authority has advised that this is because these would require legislative changes to the current *Lands Act* and *Lands Regulations* to incorporate these mechanisms in the Yukon.

[151] It is important to note that none of the lotteries reviewed by the Authority as part of this research are directly comparable to the Yukon context because, in other jurisdictions, the legislation does not solely confine lot lotteries to individual applicants who want to build a house that they will then live in.

[152] Our research found that the City of Saskatoon may offer a good model for the Authority to consider. The City of Saskatoon has a lot draw where ten percent of the lots in the lottery are reserved for individual applicants.

[153] For successful individual applicants, the City of Saskatoon imposes a four-year residency requirement. A \$50,000 forgivable mortgage⁶ is registered on the title of the property and applicants must

⁶ A Forgivable Mortgage is a type of loan where the debt does not need to be repaid provided the debtor meets specific provisions set by the lender. It becomes a condition of the Agreement for Sale of land.

pay off the mortgage over four years. Effectively, applicants cannot gain title to the property until the mortgage is paid in full or the four-year residency term has been fulfilled by the successful applicant.

[154] The City of Saskatoon's model ensures that the lottery system is not abused by developers and individuals alike. This model ensures that registered developers can participate in the Lot Lottery and that individual applicants participate for residential purposes instead of prospective or commercial developments.

Potential gap in enforcement measures after agreement for sale completed:

[155] In the Yukon's Lot Lottery, once the conditions in the AFS are completed, there is no legal mechanism the Authority can use to prevent proxies from immediately transferring the lot they won to a developer.

[156] However, if the Authority implemented a residency requirement and a forgivable mortgage into the AFS, proxies would be unable to immediately transfer title to the developer. This would allow the Authority to enforce the requirement for applicants to be Qualified Individuals, and the lottery to be used as intended by the legislation.

Legislative Assembly could amend *Lands Act* and *Lands Regulations* to create offence of deliberate misrepresentation:

[157] The current *Lands Act* and *Lands Regulations* do not include any offence provisions to address situations where a person deliberately misrepresents themselves as a Qualified Individual in a residential land lot lottery. Such an offence could be included in updated legislation with penalty provisions. If such an offence existed, an applicant could potentially be fined for violating the legislation or have their AFS rescinded. The risk of facing a financial penalty could deter proxies.

Conclusion: Issue 2

[158] We conclude that there are not sufficient deterrent and enforcement measures available to and being taken by the Authority to promote a fair lottery process. Specifically, the Authority is aware proxies are entering the lottery contrary to the rules however, the Authority has neither prescribed enforcement measures nor pushed for legislative changes to enable enforcement actions to deter and punish proxies.

Conclusions

[159] In summary, we provide the following conclusions.

Issue 1 - Is the Lot Lottery process in Whitehorse fair and is it meeting the stated intention of the legislation?

The Lot Lottery process in Whitehorse is not fair because Qualified Individuals have less of a chance of winning a lot due to proxies entering the lottery contrary to the rules prescribed by the legislation, and the intention of the *Lands Act* and *Lands Regulations* is not being met because the Authority is indirectly selling to proxies.

Issue 2 - Does the Authority have sufficient deterrent and enforcement measures to promote a fair Lot Lottery process?

The Authority does not currently have sufficient deterrent and enforcement measures available or being taken by the Authority to promote a fair lottery system. Proxies are routinely entering the Lot Lottery, and the Authority does not have enforcement abilities to stop this once a proxy has entered.

Recommendations

We make the following recommendations as it relates to the residential land Lot Lottery process in Whitehorse which is the subject of this investigation.

1. Prior to commencing any future lot lotteries, the Authority must take reasonable measures to demonstrate that it is meeting its legal obligations for the administration of Lot Lotteries under the *Lands Regulations*, as well as the intention of the legislation.
2. Any measures contemplated by the Authority to ensure compliance and fairness, must be provided to the Ombudsman for comment before being implemented.

The Authority should consider the following options or consider alternatives it feels are appropriate to meet the recommendations.

- a. Ensure that applicants are adequately vetted such that the Authority is sufficiently confident they meet the definition of a Qualified Individual, as defined in the legislation, beyond the current measures.
- b. Establish robust screening mechanisms to ensure all eligible applicants are Qualified Individuals. This may include implementing deterring measures against proxies and updating the lot lottery documents and legal agreements to explain the expectations and verification process for applicants.
- c. Prior to each land lot lottery, publicize who Qualified Individuals are and how eligibility will be established during the application process. Update the lottery documentation and guidelines accordingly.

- d. Seek legal advice to establish and implement enforceable terms to lottery application forms and agreements for sale to create legally binding requirements on applicants that they must be Qualified Individuals.

It is recognized that the Authority is bound by the *Lands Act* and *Lands Regulations* and therefore may be limited in its capacity to take action without legislative amendments to strengthen the process and promote a lottery that is both fair and meets the spirit of the Act. To that end, we suggest that the Legislative Assembly or the Executive Council Office may wish to consider the following areas for potential legislative amendments or reform:

- a) Changes to the *Lands Act* and *Lands Regulations* making it an offence to deliberately misrepresent oneself as a Qualified Individual in a lottery application.
- b) Changes to the *Lands Regulations* specifying that successful applicants in previous lot lotteries cannot apply again for a set period of years.
- c) Changes to the *Lands Regulations* increasing the refundable down payment deposit from \$300 to a higher or more significant portion of the total lot cost.
- d) Consider imposing a residency requirement or a forgivable mortgage similar to that of the City of Saskatoon.

Finally, if the Government decides that it wants both individual Yukoners as well as developers to be able to enter the lottery, it might consider creating a hybrid lottery with two different streams as is done by the City of Saskatoon and the City of Lethbridge. This may require the *Lands Regulations* to be amended.

Report regarding Investigation of Complaint

[161] As per section 23 of the *Ombudsman Act*, I am providing our Report to the Deputy Minister in their capacity as the chief executive of the affected Authority.

[162] As per section 24, I request to be advised by the Authority of the steps that have been or are proposed to be taken to give effect to my recommendations, or if no steps have been or are proposed to be taken, the reasons for not following the recommendations. The Authority has **5 business days** from the date of this amended report to provide such information to the office of the Ombudsman located at 3162 Third Avenue, Whitehorse, Yukon, Y1A 1G3. For greater certainty, the due date is on or before **August 12, 2026, by 4:30 pm.**

Report of the Ombudsman if no suitable action taken

[163] As per section 25, if the Ombudsman believes that the Authority has taken no suitable action within a reasonable time in response to the opinions, reasons, and recommendations made under section 23, then the Ombudsman may, after considering any reasoned response by the Authority, submit a report to the Commissioner in Executive Council and later to the Legislative Assembly about the matter as the Ombudsman considers appropriate.

Complainant to be informed if no suitable action taken

[164] As per section 26, if the Ombudsman makes recommendations and then believes that the Authority has taken no adequate or appropriate action within a reasonable time, then the Ombudsman shall inform the Complainant of the recommendations and may make any additional comments that they consider appropriate. In any event, the Ombudsman shall inform the Complainant within a reasonable time about the result of the investigation.

Original Signed

Jason Pedlar, BA, MA
Yukon Ombudsman

Distribution:

- Authority



Yukon
Ombudsman
ANNIVERSARY

3162 Third Avenue
Whitehorse, Yukon Y1A 1G3
867 667 8468
YukonOmbudsman.ca