



**OMBUDSMAN**

SINT MAARTEN

### **Notice of Termination Investigation**

(Article 16 and 17 sub 3 National Ordinance Ombudsman)

Tourism, Economic Affairs, Transportation & Telecommunication  
The Honorable Minister, Mr. Claret Connor  
Juancho Yrausquin Blvd. #6  
Second Floor  
Philipsburg, Sint Maarten

**Your ref.no.:**

**Our ref.no.: OM-OBM 0218/2015**

**Your letter of:**

**Complaint no.: 2014/00187**

**Re: Complaint filed with the Ombudsman**

Philipsburg, 18 March 2015

This letter is to inform you that the Ombudsman refrains from further investigation of abovementioned complaint of Complainant in accordance with the National Ordinance Ombudsman ("*Landsverordening Ombudsman Ab 2010 GT no.20*").

#### **Summary of Complaint:**

Complainant applied for a taxi permit in 1999 and alleges to have applied again in 2009. In a letter dated 2 April 2012, Complainant reminded the Minister of Tourism, Economic Affairs, Traffic and Telecommunication (TEZVT) of his 2009 application and resubmitted his request to obtain a taxi permit.

By national decree dated 4 July 2013, Complainant was granted a touring car permit.

In a letter dated 7 January 2014, Complainant requested that the error be corrected and that the touring car permit be exchanged for a taxi permit.

To date of filing the complaint with the Ombudsman on 21 November 2014, Complainant had not received a response to his letter dated 7 January 2014.

#### **Findings:**

**By letter dated 10 December 1999** Complainant requested a taxi permit from the Executive Council of St. Maarten. Complainant alleges that said request was repeated in October 2009.



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**By letter dated 2 April 2012** addressed to the Minister of Traffic and Transportation, Complainant submitted a reminder of his previous request.

**In a letter addressed to the Minister of Traffic and Transportation dated 26 March 2013**, (received by government on 8 April 2013), Complainant reminded the Minister again of his previous requests for a taxi permit.

**By national decree dated 4 July 2013** Complainant was erroneously granted a touring car permit by the Minister of TEZVT. **In a letter dated 7 January 2014 Complainant** informed the Minister of TEZVT of the above-mentioned error and requested that a taxi permit be issued to him instead.

After no response was received and the matter not corrected, Complainant filed a complaint with the Ombudsman.

**On 9 December 2014 a Notification of Complaint (NOC)** was sent to the Minister of TEZVT. The Minister was requested to respond to the NOC within 4 weeks of the date of the letter, however no later than 6 January 2015.

The following questions were included in the NOC:

4. Explain why Complainant received a touring car permit instead of the taxi permit for which he applied.
5. Explain why Complainant's letter dated January 7, 2014 has not been answered.
6. Please provide us with a copy of the request (for a touring car permit) dated April 8, 2013.

**On 9 January 2015** the Minister was informed that the response deadline had passed and was granted an additional week (5 working days) to respond to the NOC.

**By email of 14 January 2015** Mr. L. Wilson, the Department Head of the Inspectorate of Economic Affairs at the Ministry of TEZVT, informed the Ombudsman that:

*"...based on a written directive of former Minister TEZVT dated December 16, 2014, the Inspectorate prepared an advice in response to the original request of Mr. Jean Michel DIV#5925 submitted July 4, 2013 wherein he requested a Taxi permit.*

*This advice has been submitted for decision making. ..."*



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Since no formal response was received to the requests to respond to the NOC, the Secretary General of the Ombudsman sent a reminder to the Secretary General of TEZVT on **4 February 2015**, in which one-week extension to date of the letter was granted (11 February 2015).

**By email of 8 February 2014** the Department Head of the Inspectorate of Economic Affairs requested that the Ombudsman confirm receipt of the email of 14 January 2015, and indicate if the response was sufficient before 13 February 2015.

**On 9 February 2015** the Complaint Officer of the Ombudsman contacted the Department Head of the Inspectorate of Economic Affairs and informed him that the email of 14 January 2015 had been received, however in light of the ongoing investigation a response to questions 4 and 6 was required.

In a follow-up email the Department Head of the Inspectorate of Economic Affairs was again informed that a response to the afore-mentioned questions was required by 13 February 2015.

In an email sent later that day, the Department Head of the Inspectorate of Economic Affairs provided the documents in response to the questions posed. The documents sent were:

- Taxi permit request dated 10 December 1999;
- Reminder request dated 2 April 2012;
- Reminder request dated 26 March 2013; and
- Internal Memo from the Minister of TEZVT dated 16 December 2014.

In the memo, the instructions were given to the Department to honor Complainant's request as he had been issued a 'G and T permit' instead of a taxi permit due to a clerical error.

**By email of 10 February 2015** the Department Head of the Inspectorate of Economic Affairs was asked to provide additional information as to when Complainant could expect to receive the taxi permit.

**On 9 March 2015** Complainant informed the Ombudsman that the situation was resolved, as he had received the taxi permit on 6 March 2015. Subsequently, the decision was made to withdraw his complaint.



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**Standard(s) of proper conduct:**

The Ombudsman investigates whether the behavior of public bodies towards citizens is correct. The applicable standard of proper conduct in this case is *adequate organization of services (administrative accuracy)*.

***Adequate organization of services***

Administrative bodies are required to organize their administration and operation in a manner, which guarantees proper service to the public.

Proper service refers to the principle of meticulousness in the administration. Proper service also includes organizing the administration in a manner that is lawful, effective, transparent, accessible, and equipped to provide prompt service and information. Continuity should be guaranteed; proper registration and archiving are essential in achieving and guarantee continuity in the administration.

**Conclusion:**

By national decree dated 4 July 2013, Complainant was erroneously granted a touring car permit by the Minister of TEZVT. In a letter dated 7 January 2014 Complainant informed the Minister of TEZVT of the error and requested that a taxi permit be issued to him as requested.

After the intervention of the Ombudsman, Complainant informed the Ombudsman that he received the taxi permit and considered his complaint resolved. Considering the Complainant's request, the Ombudsman will refrain from further investigating this complaint.

The Ombudsman however observes that, despite the fact that Complainant continued to send reminders about his request for a taxi permit, Complainant was never informed about the status of his request. After many years an incorrect permit was issued. It then took another year and the intervention of the Ombudsman before the error was corrected.

The standard of proper conduct *adequate organization of services* requires that administrative bodies, among other things, be equipped to provide proper and prompt service and information. The issuance of an incorrect permit after more than ten years cannot be considered as being proper.

Considering the aforementioned, the standard of proper conduct, *adequate organization of*



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*services* has not been observed.

The Ombudsman recommends that applicants for all permits be promptly informed in writing of the status of their requests.

Sincerely,

Dr.R. (Nilda) J.A. Arduin  
Ombudsman

Cc: - Mr. Miguel DeWeever, Secretary General  
- Mr. Lucien Wilson, Contact person  
- Complainant