

**REPUBLIC OF VANUATU  
OFFICE OF THE OMBUDSMAN**

**PUBLIC REPORT  
ON THE  
FAILURE OF  
THE PORT VILA MUNICIPAL COUNCIL  
TO ENFORCE ITS BY-LAWS**

16 June 2003

6137/2003/12

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**TABLE OF CONTENTS**

1. JURISDICTION .....	3
2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED .....	3
3. RELEVANT LAWS, REGULATIONS AND RULES.....	3
4. OUTLINE OF EVENTS .....	3
5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM.....	5
6. FINDINGS .....	5
7. RECOMMENDATIONS .....	5
8. INDEX OF APPENDICES.....	7

## **1. JURISDICTION**

- 1.1 The Constitution and the Ombudsman Act allow the Ombudsman to look into the conduct of government agencies and related bodies. This includes the conduct of the Port Vila Municipal Council in enforcing its by-laws.

## **2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED**

- 2.1 The scope of this investigation is to establish the facts about the alleged failure of the Port Vila Municipal enforcement mechanisms in enforcing its by-laws and also to determine whether such negligence was proper.
- 2.2 This Office collects information and documents by informal request, summons, letters, interviews and research.

## **3. RELEVANT LAWS, REGULATIONS AND RULES**

- 3.1 The constitutional and statutory provisions relevant to this report are mentioned in **Appendix Q**.
- 3.2 The Port Vila Municipal Council (Control of the Breeding and Keeping of Farm Animals and Poultry) By-law No.1 of 1997 provides for the regulations governing the breeding and rearing of farm animals within the Municipal boundary.
- 3.3 The Port Vila Municipal Council Public cleansing and Prevention of Nuisance By-law No. 1 of 1994 provides for regulations governing the cleansing and making of nuisance in public places within the Municipal boundary.

## **4. OUTLINE OF EVENTS**

- 4.1 On 15 January 1996 Mr. Mike Wusterhaus lodged a formal complaint to the Municipality about the burning of rubbish by Mr. Jacob Namariau at Ohlen area in Port Vila (**APPENDIX A**).
- 4.2 In a letter dated 13 May 1996 Mr. Mike Wusterhaus stated that *"In the afternoon of 26-04-1996 rubbish was burned again in front of the property of Jacob Namariau after it had been dumped there a few weeks earlier. Also at 6h30 on 11-05-1996 rubbish had been burned again in the same place... I suggest that you take the legal action mentioned in your letter, as I am no longer prepared to have my health endangered..."* (**APPENDIX B**).

Despite the issuance of notice to the various persons concerned in the area, rubbish was still dumped and burnt there.

- 4.3 On 21 May 1996 Mr. Mike Wusterhaus lodged another complaint to the Ombudsman.
- 4.4 On 3 June 1996 Mr. Wusterhaus sent another letter to the Municipality saying *"Rubbish dumped in the roads in the Ohlen area has been recently removed by you. However, the rubbish on the side of the property of Jacob Namariau has again as so many times before not been removed. On 1 June '96 it has been burned again"*. (**APPENDIX C**).
- 4.5 On 13 June 1996 Mr. Wusterhaus reported to the Municipal Health Inspector that *"on the neighboring property (Land Title 11/OH31/004) of Mason and Willy Essau, no changes have occurred. The pigs are still being kept on the unoccupied property, the chickens are still damaging my garden, my hedge is still being killed further and my fruits contaminated with the daily laundry done next to it by the tenants"* (**APPENDIX D**).

- 4.6 On 20 June 1996 Mr. Wusterhaus sent another letter to the Ombudsman stating that on 15 June 1996 in the afternoon, Mr. Willy Essau with a few boys came to search for his pig which had run away (**APPENDIX E**).
- 4.7 On 27 June 1996, Mr. Tonny M Ata, Senior Environmental Health Officer advised the Ombudsman that the Municipal Environmental Health Unit had conducted an inspection of the area with respect to the dumping and burning of rubbish and the keeping or rearing of farm animals and poultry. Verbal Notice was given and followed by a written one dated 20 June 1996 and issued to the accused (**APPENDIX F**). The notice clearly stipulated that people that own poultry should remove them or put them behind proper fencing and those rearing pig(s) should have them moved out of the municipal area by 21 June 1996.

Mr. Ata also mentioned that "...We will now take tougher measures against the owner of the premises after liaising with our Town Planning Unit".

- 4.8.1 On 8 August 1996 Mr. Wusterhaus sent a letter to the Ombudsman saying that "Six weeks after Mr. Ata's follow-up visit the situation still has not changed. Chickens are still damaging my garden, the washing is still going on unabated, so is the destruction of my hedge. As far as Namariau's rubbish burning is concerned, nothing has changed there either. By-law No.1/1994 provides for a fine of 20,000 vatu. Has that been done? No! If required by you or the Municipality video-taped evidence is available. I demand that immediately appropriate measures are taken to ensure a permanent enforcement of the relevant laws" (**APPENDIX G**).

- 4.9 On 20 May 1997 the Ombudsman sent a letter to the Deputy Town Clerk Mr. Fatani Sope reiterating that:

*"Mr. Wusterhaus has been complaining to my office since the beginning of 1996 about burning of rubbish and keeping of farm animals in the area near to where Mr. Wusterhaus lives. I have consulted Mr. Tonny Ata, the Senior Environmental Health Officer about this complaint... Since then Mr. Wusterhaus has returned to my office to say that nothing has changed..."*

- 4.10 In his response to the Ombudsman in a letter dated 23 May 1997 Mr. Fatani Sope (Deputy Town Clerk) said "In such case witness' statement may be obtained from a complainant and summons may be issued against anyone in possession of poultry and farm animal to appear in court. Under bye-law 4 of 1992, an authorisation may be given by the Council to police officers, town wardens, officers of the Council to seize and destroy poultry and farm animal in the urban area. In regard to burning of rubbish, the Environmental Health Unit may serve notices to owners of premises to keep their yard clean and also advise them to keep their green garbage in their back yard until such time as a disposal vehicle does the collection" (**APPENDIX H**).
- 4.11 In his response on 18 June 1997 to the Ombudsman's letter of 16 June 1997, Mr. Ata said that the Municipal Council was in the process of having its by-laws amended because of errors that had been overlooked, signed and were gazetted before being enforced (**APPENDIX I**).

The Port Vila Municipal Council By-Laws Nos. 4/77, 3/81 and 4/92 were repealed and replaced by the Port Vila Municipal Council (Control of the Breeding and Keeping of Farm Animals and Poultry) By-Law No.1 of 1997. The corrected animal and poultry by-law was gazetted on 14 July 1997.

- 4.12 On 9 May 1998 Mr. Wusterhaus informed the Ombudsman that the "loudly announced inspection for farm animals to take place in November last year obviously never happened. My neighbor Bongnebu is keeping a pig since several months directly next to my house in addition to the chickens which are kept since many years" [Refer also to letter dated 4/06/98 to the Municipality] (**APPENDIX J**).

- 4.13 On 3 August 1999 the Ombudsman sent a letter to the Town Clerk, Mr. George Kalo requesting him to explain the role of the Municipal police with their powers to remove farm animals and poultry (**APPENDIX K**). A response was only received on 21 March 2000 (**APPENDIX L**).
- 4.14 On 2 October 2000 the Assistant Environmental Health Officer Mr. Malcolm Dalesa submitted to the Ombudsman a report on their inspection of the Ohlen area that was carried out on 21 September 2000, and also a public health notice that was delivered the next day (**APPENDIX M**).

## 5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM

- 5.1 The Ombudsman sent letters to the following people in an attempt to obtain their comments on the matter but only Mr. Wusterhaus responded:

Mike Wusterhaus  
Jacob Namariau  
Willy Essau  
George Kalo

Fatani Sope  
Malcolm Dalesa  
Port Vila Municipal Councillors  
Madeleine Tom

Commenting on the issued working paper, Mr. Wusterhaus said in a letter dated 27 November 2002 that for a couple of weeks there was a pig being kept again on the property of a neighbor but it would be a waste of time reporting it to the Municipality. He also provided pictures of not only the rubbish being thrown into his premises but also of garbage being burnt thus having a deteriorating effect on his fence (**APPENDIX N**).

## 6. FINDINGS

- 6.1 **Finding 1:** **The Municipal Council has failed to enforce by-law No. 1 of 1997 which came into force on 14 July 1997**

- 6.1.1 Upon receiving Mr. Wusterhaus' complaint by the Municipality, the Municipal Council could not enforce by-law No.4 of 1994 as a result of an error within the by-law (**see APPENDIX M**). However, the above law was repealed and replaced by the Port Vila Municipal Council (Control of the breeding and keeping of farm animals and poultry) No. 1 of 1997 - which came into force on 14 July 1997. But even after such enactment of the by-law, the Municipality delayed the enforcement of its by-law over a period of over 3 years (from 14 July 1997 to 21 September 2000) in actually sending another inspection team to the area concerned and distributing health notices to the residents. As a matter of fact the farm animals and poultry were already removed to another site outside of the municipal boundaries. Thus, the Municipal Council had failed to enforce its by-law No.1 of 1997 which says that:

*"Any person being the owner of poultry or any farm animal who contravenes **section 2** shall be guilty of an offence and shall be liable to a fine not exceeding Vt 20,000 or, in default of payment to imprisonment for a term not exceeding 12 months" (**APPENDIX Q**).*

## 7. RECOMMENDATIONS

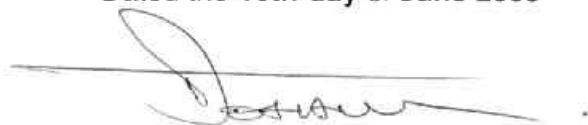
- 7.1 **Recommendation 1:** **The Port Vila Municipal Council jointly with the Public Prosecutor should at all times enforce the Port Vila Municipality by-laws.**

The lack of effective action on the part of the Municipality is unfair since it enables people to break the by-laws with impunity.

- 7.2 **Recommendation 2:** **The Municipal Police should be given the responsibility of dealing with residents in breach of the Municipal By-law No.1 of 1997 on breeding and keeping of poultry and any farm animal. Their reports should be submitted to the Prosecution for legal proceedings.**

- 7.3 **Recommendation 3:** The Municipality should remind owners of poultry or any farm animals within the Port Vila Municipal boundary of their obligations pursuant to the Municipal by-laws relating to animals and nocturnal noise. This could be in a form of a booklet of all by-laws.

Dated the 16th day of June 2003

A handwritten signature in dark ink, appearing to read 'Pasa TOSUSU', is written over a horizontal line.

**Pasa TOSUSU**  
**Officer-In-Charge**  
**For: Hannington G. ALATO**  
**OMBUDSMAN OF THE REPUBLIC OF VANUATU**

**8. INDEX OF APPENDICES**

- A** Copy of letter dated 15 January 1996
- B** Copy of letter dated 13 May 1996
- C** Copy of letter dated 2 June 1996
- D** Copy of letter dated 13 June 1996
- E** Copy of letter dated 20 June 1996
- F** Copy of letter dated 27 June 1996 and Copy of Notice
- G** Copy of letter dated 8 August 1996
- H** Copy of letter dated 23 May 1997
- I** Copy of letter dated 18 June 1997
- J** Copy of letter dated 9 May 1998
- K** Copy of letter dated 3 August 1999
- L** Copy of letter dated 20 March 2000
- M** Copy of letter dated 2 October 2000
- N** Photos
- Q** Relevant laws, regulations and rules

"A"

15 January 1996

Municipality of Port Vila  
Town Clerk  
P.O. Box 99  
Port Vila

C O P Y

Dear Sir,

I was very pleased to know that you finally took some action against people in the Ohlen area depositing rubbish in the road. Of course, doing so is a violation of by-law and it is also the wrong thing to do in the national capital of the untouched paradise.

However, either Jacob Namariau and the adjacent property have not received notices or they did not get the message as they are still piling up rubbish in the road and burning it. Please have that stopped immediately and inform me about the action taken.

Sincerely yours,

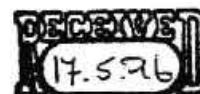
Mike Wusterhaus  
P.O. Box 953  
Port Vila





"B"

13 May 1996



Municipality of Port Vila  
Town Clerk  
P.O. Box 99  
Port Vila

Dear Sir,

This is further to my letter dated 15-01-96 of which a copy is enclosed.

Although your environmental officer had given to someone on the property of Jacob Namariau shortly after my complaint a copy of your letter M.C. 1/1/1 SDP/ad of 18-07-95, again it has been ignored. As a matter of fact, the other party mentioned in my letter has ignored it as well.

In the afternoon of 26-04-1996 rubbish was burned again in front of the property of Jacob Namariau after it had been dumped there a few weeks earlier. Also at 6h30 on 11-05-1996 rubbish had been burned again in the same place.

The material is usually not dry and plastics are mixed in. Therefore it is producing a lot of smoke.

I suggest that you take the legal action mentioned in your letter, as I am no longer prepared to have my health endangered. Endangering someones health is a criminal offence under the criminal code.

Sincerely yours,

A handwritten signature in cursive script.

Mike Wusterhaus  
P.O. Box 953  
Port Vila

enc.

cc. Ombudsperson for your information

"B"

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11

"C"

03 June 1996

Municipality of Port Vila  
Town Clerk  
P.O. Box 99  
Port Vila

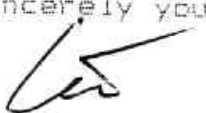
Dear Sir,

This is further to my letters dated 15/01/96 and 29/04/96.

Rubbish dumped in the roads in the Ohlen area has been recently removed by you. However, the rubbish on the side of the property of Jacob Namariau has again as so many times before not been removed. On 01 June '96 it has been burned again.

I like to know until 10 June 1996 what action you have taken regarding my complaint.

Sincerely yours,



Mike Wusterhaus  
P.O. Box 953  
Port Vila

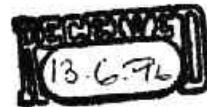
cc. Ombudsperson for your information

"C"

"D"

13 June 1996

Office of the Ombudsman  
P.O. Box 126  
Port Vila



OMB625/96/PK/cw

Dear Madam,

Reference is made to your letter dated 29 May 1996.

The Municipality of Port Vila has obviously no intention to respond to my letters or yours.

After years of complaints, Jacob Namariau and the people on his property have never been stopped from carrying on with their irresponsible violation of the law, although some sort of half-hearted action has occasionally been taken by the Municipality as well as the Police in form of a warning. However, the dumping and burning of the rubbish is continuing in the full knowledge of the law as well as the health risks. A personal attempt (see letter attached) to inform the people about the health risk has been ignored.

As a matter of fact, the burning is done as a form of harassment. The situation has been aggravated by the large amount of plastic litter generated by the customers of a recently opened store on the neighboring lot, that ends up on the heap. The heap of rubbish is about 10m away in front of my house in direct line. The main direction of the wind is towards the house.

Please have the matter investigated and the regulations enforced.

Sincerely yours,

A handwritten signature in dark ink, appearing to be "Mike Wusterhaus".

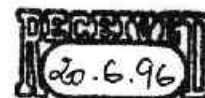
Mike Wusterhaus  
P.O. Box 953  
Port Vila

enc.

"C"

"E"

113



20 June 1996

Office of the Ombudsman  
P.O. Box 126  
Port Vila

Dear Madam,

Reference is made to my letter to the Health Inspector of the Port Vila Municipality dated 13 June 1996, of which a copy was sent to you.


The Municipality of Port Vila has obviously no intention to respond to my letter.

In addition to the points raised in the above letter, I like to bring up a few more facts to emphasize the urgency of the matter. On 15 June '96 in the afternoon, Willy Essau together with a few boys came to search for his pick, which had just run away. This had happened many times over the years. As a matter of fact, I had complaint about picks being kept by the neighbors as early as 1992, right after the law banning farm animals in town was introduced (see letters attached). These letters have been ignored as so many others.

Since my dog died a couple of weeks ago, which might have something to do with the threat made by a tenant on the property concerned to kill it, their chickens are running around freely on my property, causing big damage to the little bit of garden that is left. Since years, I am deprived of the right to make use of my land to the fullest extent as provided for under various regulations.

Please have the matter investigated and the regulations enforced.

Sincerely yours,

  
Mike Wusterhaus  
P.O. Box 953  
Port Vila

enc.



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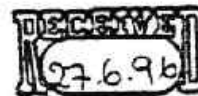
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MUNICIPALITÉ  
DE  
PORT-VILA

Boite Postale 99  
Tel: 22113  
Télécopie: 25002



MUNICIPALITY  
OF  
PORT VILA



P.O. Box 99  
Tel: 22113  
Facsimile: 25002

N/ Ré: M.C. 2/5/10 TAM

Port Vila 27th June 1996

V/ Ré:

Mrs Marie-Noelle Ferrieux Patterson  
Ombudsman of the Republic of Vanuatu  
Office of the Ompudsman  
P.O. Box 126  
Port Vila

Dear Madame

RE : COMPLAINT OF MR. M. WUSTERHAUS

I refer to the above mentioned matter.

The Environmental Health Unit of the Port Vila Municipality has contacted an inspection of the same on the 18th of June 1996. The inspection was not only on rubbish but also on poultry and animals. Verbal Notice was given to all the accused and followed later by a Written Notice which I have attached a copy for your information.

A follow up visit by myself was done on 26th of June to Mr. Wusterhaus premises to check on the outcome of the notices. We will now take tougher measures against the owner of the premises after liaising with our Town Planning Unit.

I hope this answers some quiries on the matter which is not only about the rubbish.

Yours faithfully



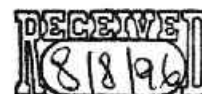
Tonny M. Ata  
SENIOR ENVIRONMENTAL HEALTH OFFICER

“3”

“4”

"G"

08 August 1996



Office of the Ombudsman  
P.O. Box 126  
Port Vila

OMB625/96/PK/cw  
OMB885/96/MGN/js

Dear Madam,

This is further to my letter dated 23-07-96.

I am finally in possession of the copy of the letter of the Municipality after I picked it up myself from your office.

This letter does not satisfy me at all. It is nothing but a declaration of intent. 'We will now take tougher measures...' What measures? Details are required here. The notice is even not addressed to a particular person. Legally very questionable. There is also no year given in which to comply with the notice. I like to know what they had done and not what they will do to stop the violation of the bye-law once and forever. Bye-law No. 4/1992 permits the seizure and destruction by police or council officer of any poultry or animal found wandering at large in circumstances in which it constitutes a nuisance or danger to the public or to any person. It also permits a fine of 20.000 vatu or 52 weeks imprisonment. Has this been done? No!

Six weeks after Mr. Ata's follow-up visit the situation still has not changed. Chickens are still damaging my garden, the washing is still going on unabated, so is the destruction of my hedge.

As far as Namariau's rubbish burning is concerned nothing has changed there either. Bye-law No.4/1994 provides for a fine of 20.000 vatu. Has that been done? No!

If required by you or the Municipality video-taped evidence is available.

I demand that immediately appropriate measures are taken to ensure a permanent enforcement of the relevant laws.

Sincerely yours,

A handwritten signature in dark ink, appearing to be "Mike Wusterhaus".

Mike Wusterhaus  
P.O. Box 953  
Port Vila

”כ”

”כ”

**MUNICIPALITÉ  
DE  
PORT - VILA**

Boîte Postale 99

TÉL.: 22113

Télecopie: 25002



**MUNICIPALITY  
OF  
PORT VILA**

P.O.Box 99

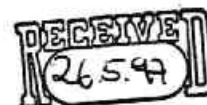
TEL.: 22113

Fax.: 25002

N/ Réf.: MC. 3/2/10 - FS/mt

Port Vila, 23rd May 1997

V/ Réf.:



Marie-Noëlle Ferrieux Patterson  
Ombudsman of the Republic of Vanuatu  
PO Box 126  
Port Vila  
VANUATU

Dear Madam,

Re : Complaint of Mr Mike Wusterhaus of Ohlen Area

With reference to your letter OMB1243/97-10/03 dated 20 May 1997, and following Mr Mike Wusterhaus' complaint, I would like to inform you that our Environmental Health Unit has made regular visits to Ohlen area and notices have been served to property owners to remove their poultry and farm animal from the Municipal boundary and to comply with Bye-Law 1 of 1994.

In such case witness' statement may be obtained from a complainant and summons may be issued against anyone in possession of poultry and farm animal to appear in court.

Under Bye-Law 4 of 1992, an authorisation may be given by the Council to police officers, town wardens, officers of the Council to seize and destroy poultry and farm animal in the urban area.

In regard to burning of rubbish, the Environmental Health Unit may serve notices to owners of premises to keep their yard clean and also advise them to keep their green garbage in their back yard until such time as a disposal vehicle does the collection.

However the Council does collect the household garbage 3 days a week.

Again notices may be issued by the Environmental Health Unit to owners of premises to comply with Bye-Law 1 of 1994.

.../...


"H"

"H"

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Failing to comply with the said bye-law, owners of premises may be summoned to appear in court.

Yours faithfully

  
Fatani Sope  
Deputy Town Clerk



"H"

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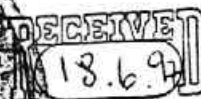
"I"

MUNICIPALITÉ  
DE  
PORT - VILA

Boîte Postale 99

TÉL.: 22113

Télecopie: 25002



MUNICIPALITY  
OF  
PORT VILA

P.O.Box 99

TEL.: 22113

Fax.: 25002

N/ Réf. M.C. 2/5/10 TAM

Port Vila 18th June 1997

V/ Réf.:

Mrs Marie-Noelle Ferrieux Patterson  
Ombudsman  
Office of the Ombudsman  
P.O. Box 126  
Port Vila.

Dear Madam,

I received your letter dated 16th June 1997 in regards to Mr Wusterhaus's complaint.

I apologise that I won't be in Vila on Friday since I will be leaving on Thursday to visit my sick mother. However for your information, my office has nothing to argue about except to let you know we are now amending our existing Bye-Laws for errors that had prevented the council from prosecuting offenders whom are found almost every where within the municipality boundaries. The existing Animals and Poultry bye-law is one of these but is still in the process to be signed and Officially Gazetted before being enforced.

I hope this information answers your quires to the matter.

Yours faithfully,

Tonny Ata.



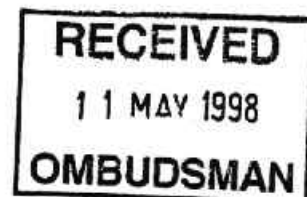
"I"

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"J"

09 May 1998



Office of the Ombudsman  
P.O. Box 126  
Port Vila

Dear Madam,

This is further to my letter dated 17-12-97.

As mentioned then, nothing had changed nor was there any intention to solve the problems, on the contrary.


Plastic is now burned regularly in front of my house by two parties. A few days ago, the rubbish from the recent hurricanes piled up in the surrounding streets has been removed by the municipality. Yet, as usually the heap belonging to Jacob Namariau in front of my house had not been removed. Although I had complaint over the years several times about that to the municipality, the discrimination is continuing. As a result, the rubbish mixed with plastic had been burned. The remaining rest will be burned later.

The loudly announced inspection for farm animals to take place in November last year obviously never happened. My neighbor Bongnebu is keeping a pig since several months directly next to my house in addition to the chickens, which are kept since many years.

On 08-05-98, a pig from the neighborhood spent some time in my garden, damaging the things planted there.

My complaint is with you since two years. There has been no improvement of the situation nor have you issued a report. I think it is time to give up your soft approach toward the municipality and do some serious investigating and reporting. Have a look at the ongoing industrialization of the Ohlen area and other misuse of land that is designated as residential as well as other gross violations of municipal byelaw of which the municipality is very well aware of.

Sincerely yours,

  
Mike Wusterhaus  
P.O. Box 953  
Port Vila

“T”

“T”



"K"

Office of the Ombudsman  
Bureau du Médiateur  
Ofis blong Ombudsman



Refrens blong mifala: 5911/6137/L06/gk  
(Plis putum refrens ia long evri leta)

3 August 1999

Mr George Kalo  
Town Clerk  
Municipal Council  
PO Box 99  
Port Vila

Dia Mista

**COMPLEIN BLONG MISTA WUSTERHAUS**

Ofis ia i stap lukluk long mata ia we i stap andap.

Mista Wusterhaus emi bin komplein se ol neba blong hem we oli live kolosap long yad blong hem oli stap bonem ol toti, fidim pig mo faol. Emia i mekem se smoke i stap go long yad blong emmo tu ol animol ia. Olgeta bye law blong Municipal blong bonem toti i kam efektifive finis long January 1995 mo blong ol animol emi kam efektifive long July 1997. Municipal i isuum ol woning leta be emi luk se emi no efektifive from situesen ino solve yiet.

Naoia Municipality emi apoentem ol Municipal Polis finis.

Blong helpem Ofis ia wetem investigeisen ia, Ofis i askem yu blong provaedem olgeta dokumen mo infomeisen ia **insaed long tu wik** stat long deit blong leta ia.

1. Wanem nao stret wok blong ol Municipal Polis?
2. Sipos Municipal Polis oli kat raet mo paoa blong stopem fasin blong bonem toti mo feedim ol animol we i mekem trabol long ol diferen neba.
3. Wanem efektifif aksen nao Municipal i tekem finis blong stopem ol samting ia we istap efektem mista Wusterhaus?
4. Wanem nao polisi blong Municipal long ol samting ia.
5. Wanem efektifive aksen nao Municipal i tekem finis blong stopem ol samting ia from we bye-law blong Municipal oli bin efektifive long taem finis.
6. Eni narafala dokumen o infomeisen we yu ting se i gud long saed blong mata ia.

Sipos yu no givim wan ansa log rikwes ia, bambae Ofis ia i save givimaot wan notis blong talem se yu mas kam long Ofis blong givim pruf mo blog provaedem infomeisen mo ol dokumen we oli nidim.

**Toksave:** Konstitusen mo Ombujman Act i talem se olgeta ankwaeri oli sekret kasem taem we wan pablik ripot i kamaot we bambae i mekem se pablik i save luk mo save. *Akt ia i talem se yu no save diskasem investigeisen ia, leta ia, o eni narafala infomeisen we i kam long Ofis blong Ombujman. bambae yu save mekem*

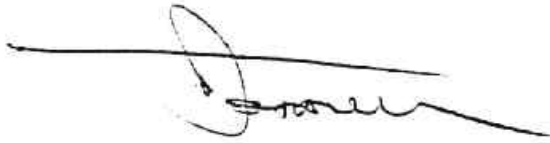
20

"K"

sipos hemi wetem laesa blong yu. Panismen blong brokem loa ia hemi 6 manis long kalabus o pem wan faen blong 100.000 Vatu o tugeta faen mo kalabus. Plis kontaktem mi sipos yu gat eni kwesten long advaes ia.

Plis kontaktem mi sipos yu gat eni kwesten blong askem. Tankio long help blong yu long mata ia. Plis putum refrens namba we i stap andap long evri leta.

Mi tru.



**Pasa TOSUSU**  
Daarekta blong General Kompleins  
Long behaf blong Marie-Noëlle **FERRIEUX PATTERSON**  
**AKTING OMBUJMAN BLONG RIPUBLIK BLONG VANUATU**





**MUNICIPALITÉ  
DE  
PORT-VILA**

Boîte Postale 99

Tel: 22113

Télécopie: 25002



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OF  
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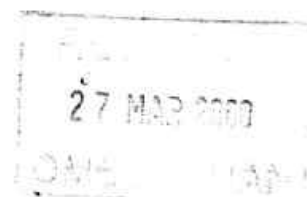
N/ Réf: MC. 2/3/10 - PM/md

Port-Vila 21<sup>ST</sup> March 2000

V/ Réf:

OFFICE OF THE OMBUDSMAN  
P.M.B 081  
Port Vila  
Vanuatu

**ATTENTION : PASA TOSUSU**



Dear Sir,

**SUBJECT : RE - COMPLEN BLONG MISTA WUSTERHAUS**

Folem enquiry blong you konsenem mata ia antap, emia nao ol ansa blong hem.

- 1- Stret wok blong olgeta emi blong enforcem municipal bye laws.
- 3- Council I needim evidence blong deal wetem case ia especially long saed blong bonem toti from we I gat fulap man we oli live araon long client blong you
- 4- Council I wok base long ol bye law blong hem be emi needim evidence blong emi save deal wetem stret man we I bonem toti.
- 5- Bambae Council I start blong tekemaot ol pigs mo chickens long ol property we I stap raon long haos blong Mr WUSTERHAUS long ol days we I kam.

Yours faithfully,

cc. : - E.H.U  
- File

  
**Peter MORRIS**  
**SENIOR TOWN PLANNER**



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PT 1/4  
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Tel: 22113 / 24017  
Facsimile: 25002

Email: mairiepv@vanuatu.com.vu

N/Réf

**M.C 2/3/10 md**

V/Réf

The Ombudsman  
Private Mail Bag 081  
Port Vila

Dear Sir

Port Vila, October 2, 2000

04 OCT 2000  
OMBUDSMA

**RE: Report long Complaint blong Mike Wasterhaus**

Long 21 September 2000, klosap 9am, me (Malcolm Dalesa, Assistant Environmental Health Officer) mo Robert Johnathan Nase, wei hemi Chief Warden blong ol municipal police I bin go long wan nuisance complaint blong Mr Wasterhaus long Ohlen Area.

Mr. Wasterhaus hemi bin stap komplem from se ol man wei oli slip klosap oli stap bonem ol rubbish blong olgeta (wei I mekem smoke I go long yad blong hem) mo abaot fasin blong kipim pig mo faol long municipal boundary.

Mitufala I go fastaem long yad blong Steven Bong, wei hemi slip klosap long Wasterhaus (luk long attached map). Steven Bong long taem ia hemi no stap, therefore mi bin toktok wetem wanfala relative (wan man) blong Mr. Bong wei I bin stap long haos. Mi talem long hem abaot komplem blong Wasterhaus, and at the same time askem long hem spos Mr. Bong hemi kipim any pig o faol long yad. Man ia hemi bin reply that Steven hemi no kipim pig be hemi gat wan faol nomo wei I stap long wan cage. Therefore mi rimindem hem se fasin blong kipim faol long municipal area hemi agensem Council byelaws mo sapos oli save remuvum. Mi also mekem I klia se practice blong bonem toti long future I shud stop, as hemi also agensem Council byelaws. Mifala I notem se I gat eni pig long yad.

Afta Steven Bong's residence, mi mo Robert I go lukim Jacob Wawekon, wei hemi slip narasaed rod long Wasterhaus (refer long map). At that time hemi bin mekem wan fire long saed blong rod. Mi toktok wetem Mr. Wawekon mo talem long hem abaot komplem blong Wasterhaus mo talem long hem blong putumaot fire wei I stap mo long future hemi no shud bonem toti. Mi bin askem tu sapos hemi kipim any pig o faol, be hemi se hemi no kipim eni pig o faol. Mi notem tu se oli no kipim eni pig o faol long yad. Hemi talem nomo maybe Morris David o ol man long rent haos blong Masong Esau (see map) long next yad long Waterhaus oli kipim faol mo pig.

Therefore mitufala I go long yad blong Mr Morris David, be hem long taem ia hemi no stap. So mi bin toktok wetem wan man long yad, and mifala I askem long hem sapos Morris I gat eni pig o faol. Hem bin talem se Morris I bin gat wan pig wei oli bin karem aot finis, be I no gat faol. Mifala I notem nomo se I gat wan fence blong pig I stap be I no gat pig insaed.

"M"

2/4

Afta long hemia mi mo Chief Warden I bin go long rent haos blong Masong Esau mo toktok wetem olgeta wei I slip long rent haos. Long taem ia mifala I bin toktok wetem two woman wei oli bin stap long yad. Mi bin talem abaot komplem blong Wasterhaus mo askem long olgeta sapos oli kipim eni pig o faol. However, oli bin talem se oli no kipim eni faol o pig, mo mifala I notem tu se I no gat eni faol o pig long yad. Mi bin askem tu sapos oli save stop blong bonem toti, which oli se oli neva mekem.

Wan long ol woman ia tu I komplem abaot ol hedges blong Wasterhaus wei hemi grow for more than 2m high and hemi bend I go insaed yad blong olgeta. Oli bin talem se fulap taem oli wantem katem ol hedges ia, Wasterhaus hemi stap tok blong oli no mas katem, and oli komplem se ol hedges ia hemi wan nuisance long olgeta.

Afta that mi mo Robert I visitim Mr Wasterhaus long yad blong hem. Hem go ova ol complaints ia bakegen. Hemi se long saed blong bonem toti, Jacob Wawekon nao hemi usually bonem toti and that ol pig mo ol faol, ol man klosap long yad blong hem nao oli stap kipim, hemia I includim Steven Bong, Morris David and ol tenants long rent haos blong Masong Esau. Mi talem long hem se long olgeta yad wei mi and Robert I visitim, oli no kipim eni pig o faol, except Mr. Bong wei I kipim wan caged faol. Mr. Wasterhaus I komplem tu abaot ol pig wei Billy Tom (luk long map) I kipim long yad blong hem. Mi mo Robert I bin checkem komplem abaot pig blong Billy Tom long 22 September 2000 mo findem aot se I gat wan pig be hemi stap aotside long municipal boundary.

Hemi showem tu long long mi ol rubbish wei hemi claim se olgeta long rent blong Masong Esau mo Morris David oli stap sakem I kam insaed long yad blong hem. Ol rubbish ia I consist of ol plastic bags, bottles, tin cans and metal pieces. Therefore mi talem long Wasterhaus se bae mi givim wan general notice I go long ol man around long yad blong hem, blong rimindem olgeta abaot restriction blong Council long saed blong bonem toti, kipim pig mo faol and littering long property blong nara man (refer long attached notice). Mi also bringim up concern blong ol tenants blong Masong Esau, abaot ol hedges blong hem and sapos hem I save trimim ol hedges. Wasterhaus at that time hemi se bae hemi mekem.

Mi then bin mekem public health notice ia long afternoon blong 21 September 2000 mo deliverem long 22 September 2000 olgeta concerned.

Hemia nao report abaot ol inquiries wei mi mo Robert Johnathan Nase I mekem in response to ol complaints from Mr. Wasterhaus.

Thank you long cooperation and understanding blong yu long mata ia.

Yours Sincerely



Malcolm Dalesa

**Assistant Environmental Health Officer**

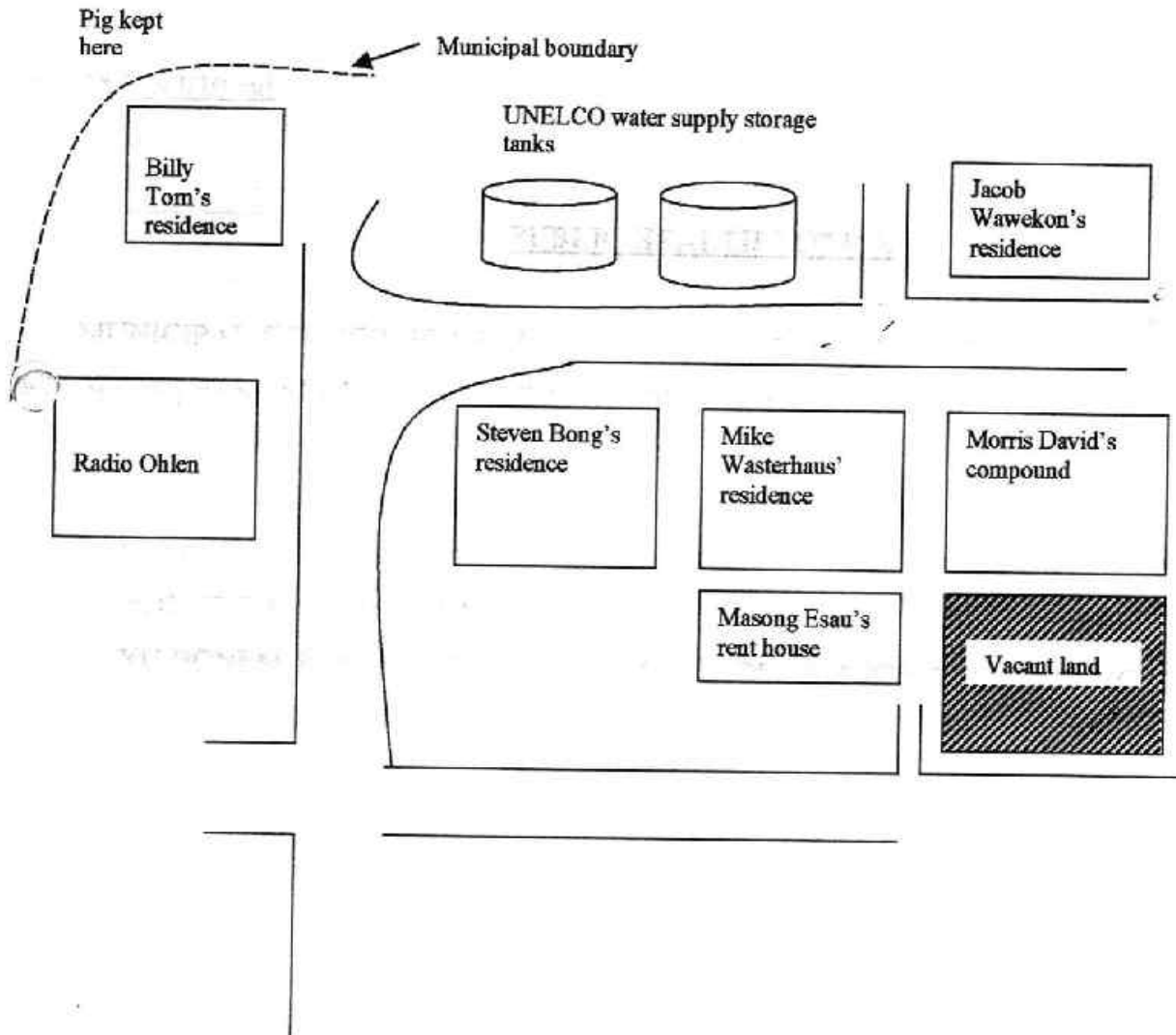
Cc: - Town Clerk  
- Tony Ata, SEHO  
- EHU file

"M"

"M"

3/4

Map of Areas near Wasterhaus residence (Ohlen Area)



4M2

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N/Réf M.C 2/3/10 md

Port Vila, September 21, 2000

V/Réf

**PUBLIC HEALTH NOTICE**

MUNICIPAL COUNCIL HEMI WANTEM INFORMEM YUFALA SE UNDER OL BY-LAWS  
BLONG HEMI I GAT SAM SAMTING WEI PUBLIC I NO ALLOW BLONG MEKEM MO MAS  
AWARE LONG HEM.

1. HEMI TABU BLONG BONEM TOTI BLONG YU LONG ROD O YAD, FROM SMOKE  
BLONG TOTI HEMI SAVE AFFECTEM OL MAN LONG NARA YAD. ESPECIALI TAEM  
YU BONEM PLASTIC, PLASTIC HEMI GAT OL MERESIN INSAED LONG HEM WEI I  
SAVE AFFECTEM HELT BLONG YUMI.
2. COUNCIL HEMI NO ALLOWEM BLONG ENI MAN O WOMAN I KIPIM FAOL O PIG  
INSAED LONG MUNICIPAL AREA.
3. RESPECTEM PROPERTY BLONG NARA MAN MO NO SAKEM TOTI I GO INSAED  
LONG PROPERTY O YAD BLONG NARA MAN.

MUNICIPAL COUNCIL BAE HEMI HAPI BLONG GAT COOPERATION BLONG YUFALA  
EVRIWAN.

**HELPEM BLONG KIPIM PORT VILA HEMI STAP KLIN MO HELTI OLTAEM!!!**

SIGN



PORT VILA MUNICIPAL COUNCIL



"N"





"N"



W

## **APPENDIX Q**

### **RELEVANT LAWS, REGULATIONS AND RULES**

#### **3.1 CONSTITUTION OF THE REPUBLIC OF VANUATU**

##### **Article 62 (2)**

This article shall apply to all public servants, public authorities and ministerial departments, with the exception of the President of the Republic, the Judicial Service Commission, the Supreme and other judicial bodies.

#### **3.2 THE PORT VILA MUNICIPAL COUNCIL (CONTROL OF THE BREEDING AND KEEPING OF FARM ANIMALS AND POULTRY) BYE-LAW NO. 1 OF 1997**

##### **KEEPIN OF FARM ANIMALS AND POULTRY PROHIBITED**

1. No person shall keep, raise or breed any farm animal or poultry within the boundaries of the Council.

##### **POWER OF POLICE, MUNICIPAL WARDENS AND COUNCIL OFFICERS**

2. It shall be lawful for any municipal warden or officer of the Council authorized by the Council in writing for the purpose of section 2, or any police officer at all reasonable times to enter premises and to make inquiries to ascertain whether any breach of section 2 has been committed.

##### **POWER TO DESTROY POULTRY AND FARM ANIMALS**

3. Any police officer, municipal warden or officer of the Council may seize and destroy any poultry or farm animal found wandering at large, in circumstances in which it constitutes a nuisance or danger to the public or to any person.

##### **OFFENCE**

4. Any person being the owner of poultry or any farm animal who contravenes section 2 shall be guilty of an offence and shall be liable to a fine not exceeding Vt20,000 or, in default of payment to imprisonment for a term not exceeding 12 months.

#### **3.3 PORT VILA MUNICIPAL COUNCIL PUBLIC CLEANSING AND PREVENTION OF NUISANCE BYE-LAW NO.1 OF 1994**

##### **PREVENTION OF NUISANCES IN STREETS AND PUBLIC PLACES**

##### **DUMPING OF LITTER IN PUBLIC PLACES**

2. (1) No person shall deposit or cause or permit to be deposited any litter or waste on or in –
  - (a) any street or public place;
  - (b) the common parts or any building;
  - (c) any watercourse, stream, channel, ditch or reservoir or the waters of Port Vila Harbour;
  - (d) any Government property except with the consent of a public officer; or
  - (f) any land except with the consent of the owner of the land.
- (2) If any litter or waste is deposited from a window, balcony, verandah or roof of any premises or part of any premises in violate of paragraph (1), the occupier of such premises or part thereof shall be guilty of an offence unless he proves that the contravention was committed by a person who is not a member of his family nor employed by him.

- (3) If a violate of paragraph (2) is committed, it shall be no defence for the occupier to prove that the contravention was committed without his consent or knowledge.

#### **OCCUPIER OF PREMISES REQUIRED TO KEEP SURROUNDINGS CLEAN**

3. (1) If any litter or waste is found –  
(3) in a street or public place, within 6 metres of any premises fronting, adjoining or abutting on such street or public place and having direct access thereto; or  
(4) in any common part of a building as specified in paragraphs 4 and 6 of the First Schedule, within 6 metres of any premises fronting, adjoining or abutting on such common part and having direct access thereto;

an officer of the Council authorized in writing in that behalf by the Council may by notice in writing served on the occupier of such premises, require him to remove therefrom the litter or waste within one hour or such longer period as may be specified in the notice.

#### **DEPOSIT OF LITTER CAPABLE OF CAUSING FIRE**

- (ii) No person shall deposit or cause or permit to be deposited in a container provided by the Council for the receipt litter anything which is capable of igniting therein or any of the contents thereof.

#### **NAME IN WHICH PROCEEDINGS FOR OFFENCES MAY BE BROUGHT**

25. Without prejudice to the provisions of any other enactment relating to the prosecution of criminal offences prosecutions for an offence under any of the provisions of these bye-laws may be brought in the name of the Council.