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of Ontario



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OFFICE OF THE INTEGRITY COMMISSIONER



**REPORT
OF
J. DAVID WAKE, K.C.
INTEGRITY COMMISSIONER**

Re: The Honourable Steve Clark, Minister of Municipal Affairs
and Housing and Member of Provincial Parliament for Leeds–
Grenville–Thousand Islands and Rideau Lakes

Toronto, Ontario
August 30, 2023

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Summary

Twenty-seven days after his party was re-elected in Ontario, Premier Doug Ford sent a letter to Steve Clark, Minister of Municipal Affairs and Housing, outlining the priorities for the ministry in the coming term. This June 29, 2022 mandate letter provided a lengthy “to do” list, including a key direction about Ontario’s Greenbelt:

In Fall 2022, complete work to codify processes for swaps, expansions, contractions and policy updates for the Greenbelt. In addition, conduct a comprehensive review of the mandate of the Greenbelt Council and Greenbelt Foundation. This should include a comprehensive plan to expand and protect the Greenbelt.

This was a significant policy shift since the government had spent the past four years stating that it would not open up any lands in the Greenbelt for development. Minister Clark shared the mandate letter list with his deputy minister, his interim chief of staff, and then with his newly appointed chief of staff, Ryan Amato.

Mr. Amato had not previously worked in this ministry, nor had he been a chief of staff – he came from the Minister of Transportation’s office where he was director of stakeholder relations. Untrained and unsupervised, in the coming months he oversaw a small team of public servants that at the end of October proposed to the minister that 15 properties either be removed from the Greenbelt or be redesignated. The matter went before cabinet on November 2, was approved, and after a short 30-day public consultation period, the Greenbelt changes took effect.

The resulting public outcry over this move led to a complaint filed with me on December 8, 2022. In that complaint, Marit Stiles, Member of Provincial Parliament for Davenport, asked for my opinion on whether Minister Clark contravened sections 2 (Conflict of Interest) and 3 (Insider Information) of the *Members’ Integrity Act, 1994*. Making or participating in a decision that furthers another person’s interest improperly is prohibited under section 2 of the Act. Communicating information that may be used to further another person’s interest improperly is prohibited under subsection 3(2) of the Act.

My inquiry was limited to determining whether Minister Clark’s role in the decision to remove certain properties from the Greenbelt contravened the Act.

In the course of this inquiry, my staff and I received evidence from 61 witnesses plus Minister Clark. We reviewed maps, documents, text messages, emails, briefing decks and other documents totalling thousands of pages. Much of the evidence was gathered through the exercise of my powers under section 33 of the *Public Inquiries Act, 2009* to summons witnesses and to have them produce relevant documents. I was satisfied with the level of cooperation shown by all witnesses and their counsel in this inquiry in making themselves available and producing documents.

The evidence paints a picture of a process marked by misinterpretation, unnecessary hastiness and deception. It shows that Mr. Amato advised Minister Clark to “leave it with me” as he embarked on a chaotic and almost reckless process that I find led to an uninformed and opaque decision which resulted in the creation of an opportunity to further the private interests of some developers improperly.

Mr. Amato gathered packages of materials from developers keen to have their lands removed from the Greenbelt. When submissions for Greenbelt removals were met with “send me more information” instead of only a polite acknowledgement, this was a subtle change in the messaging that was noticed quickly by the ever-sensitive antennae in the developer network. Certain members of the development community seized the opportunity and provided Mr. Amato with detailed maps, files and reports supporting the removal of various properties from the Greenbelt. There was no public call for submissions, consultations or assessments, but those developers who caught wind of this change – and sought access to Mr. Amato – obtained the opportunity for their lands to be removed.

Based on the evidence, of the 15 properties that were removed from the Greenbelt or redesignated, Mr. Amato was involved in the selection of 14. This report outlines the evidence gathered on how each of the 15 properties came to be included in the cabinet submission.

The public servants believed that Mr. Amato was providing direction and/or approvals from the minister and the Premier’s Office. But by his own admission and that of other witnesses, Mr. Amato was operating largely alone and undirected.

I find that Mr. Amato was the driving force behind a flawed process which provided an advantage to those who approached him. It was unfair to those landowners who had an interest in seeing their lands were removed and who were unaware of the potential change to the government’s Greenbelt policy. The argument that they could be considered at a later time must not be particularly comforting to them now and since the December removals, no action has been taken to consider any other properties for removal from the Greenbelt.

It is incumbent on the minister, however, to supervise his staff. Members cannot hide from accountability under the Act where, through undue carelessness or inattention, they fail to oversee important policies or decisions in their offices. I find that the minister made three critical decisions which contributed to the improper result of the process.

First, Minister Clark misinterpreted the mandate letter’s timing for Greenbelt removals which led Mr. Amato to embark on a rushed process with unfortunate results. Second, he made the decision to withdraw from the supervision and direction of this highly significant initiative within his ministry, leaving it to his recently appointed chief of staff who had never served in that capacity before and who was “drinking from a firehose” trying to grasp all of his new responsibilities. Third, he made the decision to take the proposal to cabinet without having questioned Mr. Amato or the deputy minister as to how the properties had been selected for removal or redesignation.

Mr. Amato's communications to developers must be attributed to Mr. Clark since I find that he failed to oversee an important initiative in his ministry which led to some developers being alerted to a potential change in the government's position on the Greenbelt with the result that their private interests were furthered improperly.

During the inquiry, I encountered evidence that is relevant to mandates I have under other pieces of legislation, on which I have outlined and offered commentary as well as recommendations in this report.

Based on the evidence gathered in this inquiry, I conclude that Minister Clark breached sections 2 and 3(2) of the Act. Accordingly, I have recommended to the Legislative Assembly of Ontario that Minister Clark be reprimanded for his failure to comply with the Act.

I. INTRODUCTION

[1] This is a report following an inquiry I have conducted under section 31 of the *Members' Integrity Act, 1994* (the "**Act**") to determine whether the Honourable Steve Clark, Minister of Municipal Affairs and Housing and Member of Provincial Parliament for Leeds—Grenville—Thousand Islands and Rideau Lakes contravened sections 2 and 3 of the Act with respect to the decision to allow development on lands in the Greenbelt and Duffins Rouge Agricultural Preserve.

[2] On December 8, 2022, Marit Stiles, Member of Provincial Parliament for Davenport, filed an affidavit that contained a request for an opinion under section 30 of the Act as to whether Minister Clark contravened the Act.

[3] As is my practice, on December 13, 2022, I provided Minister Clark with a copy of Ms. Stiles' affidavit and supporting documents and asked him for submissions on whether I should conduct an inquiry in response to the request. Minister Clark provided his response on December 20, 2022.

[4] Prior to this, on November 28, 2022, Mike Schreiner, Member of Provincial Parliament for Guelph, filed an affidavit in which he requested an opinion under section 30 of the Act regarding the Honourable Doug Ford, Premier of Ontario and Member of Provincial Parliament for Etobicoke North, as well as Minister Clark, also in relation to the decision to remove lands from the Greenbelt.

[5] In a report filed January 18, 2023, I explained why there were insufficient grounds to conduct an inquiry based on the information provided in Mr. Schreiner's request. I also indicated in that report that I found Ms. Stiles provided reasonable and probable grounds for me to conduct an inquiry under section 31 of the Act.

II. LEGAL FRAMEWORK OF THE INQUIRY

[6] Under section 30(1) of the Act, a member of the Legislative Assembly of Ontario who has reasonable and probable grounds to believe another member has contravened the Act or Ontario parliamentary convention, may request that I, as Integrity Commissioner, give an opinion as to

the matter. Only a member of provincial parliament can make such a request as the Act does not provide that I can open an inquiry on my own initiative or through a complaint received by a member of the public.

[7] Upon receiving such a request, I may conduct an inquiry and report my opinion to the Speaker of the Assembly.¹ Alternatively, I may refuse to conduct an inquiry if I am of the opinion that the referral was frivolous, vexatious, not made in good faith or that there are either no or insufficient grounds for an inquiry as set out in subsection 31(5) of the Act. If I refuse to conduct an inquiry, I am required to lay out the reasons in a report filed with the Speaker.

Scope of the Report

[8] This report responds to the request filed by Ms. Stiles. The report must adhere to the specific requirements of the Act, which is the legislation that provides the ethical rules for Ontario MPPs.

[9] The objective of the inquiry I undertook, and this resulting report, is to provide an opinion on whether Minister Clark contravened sections 2 and 3 of the Act.

[10] During the inquiry, I encountered evidence that is relevant to mandates I have under other pieces of legislation. This has happened in previous section 31 reports I have issued under the Act. In these circumstances, I add a section called “Other Issues Arising in the Inquiry” to explain the evidence and my role in relation to it. I have included such a section in this report.

What this Report Does Not Cover

[11] I am, of course, aware of the significant public interest in the “Greenbelt decision.” My office has received several hundred emails, as well as other forms of communication, including calls and social media messages, requesting that I investigate the matter. Many of these messages asked for the decision to remove the lands from the Greenbelt to be reversed. It is

¹ *Members’ Integrity Act, 1994* s. 31.

important that I make clear that I do not have the legal authority to reverse the Greenbelt decision.

[12] As noted above, this report focuses on whether Minister Clark contravened the Act with respect to the Greenbelt decision. This is the role I have as Integrity Commissioner.

[13] On August 9, 2023, Bonnie Lysyk, Auditor General of Ontario and fellow independent Officer of the Legislative Assembly, released her Special Report on Changes to the Greenbelt. This significant report covers many aspects of the Greenbelt decision and provides important context. Some of this context is relevant to the analysis I have undertaken in drafting this report and aligns with the evidence I obtained during my inquiry. Other evidence and context in the Auditor General's report is less relevant to my task. This is because it is not my role to comment on government policy decisions, but rather to determine if elected officials are adhering to the rules set out for them in the Act when they make those decisions.

III. INQUIRY PROCESS

[14] To complete this inquiry, extensive documentary disclosure was requested from a number of parties, including the Ministry of Municipal Affairs and Housing, the minister's office, developers, consultant lobbyists, the Office of the Premier of Ontario, and the Office of the Secretary of the Cabinet.

[15] Additional documents relevant to the inquiry were provided by witnesses post-interview in response to requests. In total, my Office received and reviewed more than 2,300 multi-page documents. The documents included cabinet submissions, briefing presentations, letters, text messages, emails, calendars, and maps.

[16] Of note, the documents gathered included very few emails and no text messages exchanged between the minister's chief of staff and developers and their representatives with respect to the Greenbelt project. I was advised that many communications took place by telephone call and that documents were frequently hand-delivered on USB sticks or on paper. I was also advised that phones had been replaced and text messages had been lost at that time.

[17] Interviews were conducted between March and mid-August 2023. In total, my Office received evidence from 61 witnesses, plus the respondent, Minister Clark. I offered to issue a summons to many witnesses and issued a summons when requested.

[18] Minister Clark attended my office with legal counsel, as did the majority of the witnesses interviewed. Some witnesses were interviewed more than once, including Chief of Staff Ryan Amato who attended on three different dates between April and June 2023. Forty-three interviews were conducted in person or by video conference with the witness under oath or affirmation. Written interrogatories were sent and received from 15 witnesses. Telephone interviews were conducted with 13 witnesses.

[19] The witness list included Premier Doug Ford, staff in the Premier's Office, public servants working at the Ministry of Municipal Affairs and Housing, staff in the minister's office, a mayor and a municipal employee, developers, landowners, planners, lobbyists, and others. A list of witnesses is found at Appendix A.

[20] As indicated in my interim report dated March 16, 2023, witnesses were also asked questions about their involvement in Premier Ford's daughter's stag and doe, and her wedding.

[21] All witnesses that were approached responded to my requests for interviews and made themselves available to speak to me or my staff, almost always in a timely way. Many of them made considerable effort to provide me with detailed documentation and information and rearranged their schedules to meet with me. I thank them and their counsel for their co-operation.

[22] Prior to reaching any conclusions, on August 16, 2023, I provided Minister Clark and his counsel with a written summary of the evidence on which I intended to rely and invited him to make submissions, which he did on August 25, 2023.

[23] I was assisted through the course of the inquiry by General Counsel Genevieve Currie and Investigator Donna Antonczyk from my Office.

IV. BACKGROUND

The Greenbelt

[24] Created in 2005, the Ontario Greenbelt runs from Niagara to Durham Region, circling the Greater Toronto Area and encompassing approximately 2 million acres of both privately owned and public land. It comprises towns and small settlements, agricultural land, forests, wetlands, and watersheds and was created to restrict urban sprawl and prevent loss of farmland and natural heritage.

[25] The enabling legislation, the *Greenbelt Act, 2005*, stipulates that the amount of land in the Greenbelt cannot be reduced, but acknowledges that there could be changes to the properties that are included. However, the legislation clearly states that whatever lands are removed from the protected area must be offset by additions found elsewhere. The *Greenbelt Act* also requires the creation of the Greenbelt Plan, which sets out specific land-use planning policies and other objectives for the Greenbelt.

[26] There is a mandatory review of the Greenbelt Plan, to take place every 10 years. The first review was launched in 2015 and included the creation of an expert panel and public consultation over several months. The review resulted in outer boundary changes and the inclusion of 21 urban river valley areas connecting the Greenbelt area to Lake Ontario and other surrounding areas. Land was removed from the Greenbelt in Hamilton, Clarington and Vaughan. The resulting net increase of lands added was approximately 24,000 acres, with the changes coming into effect in July 2017.

Official Plans Review

[27] An official plan describes a municipal council or planning board's policies on how land in a community should be used. Among other things, official plans address where new housing, industry and infrastructure will be developed. Official plans are required to conform to provincial policies and be updated regularly. Many official plans and updates require the approval of the Minister of Municipal Affairs and Housing.

[28] An official plan amendment is a formal document that changes a municipality's official plan. If a property owner wishes to use or develop their property in a way that conflicts with a municipality's official plan, an amendment is required.

[29] In 2022, various municipalities were required to update their official plans and submit them to the Minister of Municipal Affairs and Housing for approval, including Hamilton and York Region. The ministry posted these official plan updates for public consultation for 30 days, from September 8 to October 8, 2022. Any member of the public could make submissions through the Environmental Registry of Ontario ["ERO"] or by email or mail to request an amendment to the municipality's official plan. Ministry officials and members of the minister's staff reviewed these submissions and on November 8, 2022, the minister announced his approval of these official plans, with approximately 80 modifications made by the minister to the York Region Official Plan,² 77 modifications made to the Hamilton Urban Official Plan and 25 modifications to the Hamilton Rural Official Plan.³

V. EVIDENCE

The Government's Position on the Greenbelt During its First Term

[30] The issue of this government's position regarding removal of lands from the Greenbelt for development arose before it was elected.

[31] During the 2018 provincial election campaign, news media reported on a video of an event that had been held that February. The video showed Doug Ford stating that "[w]e will open up the Greenbelt — not all of it, but we're going to open a big chunk of it up — and we're going to start building and making it more affordable and putting more houses out there."⁴

² ERO Bulletin 019-5865, available online at <https://ero.ontario.ca/notice/019-5865>

³ ERO Bulletin 019-5732, available online at <https://ero.ontario.ca/notice/019-5732>

⁴ Robert Benzie and Kristin Rushowy, "Doug Ford assured developers he plans to open up Greenbelt to housing development" The Toronto Star (April 30, 2018), online: https://www.thestar.com/politics/provincial/doug-ford-assured-developers-he-plans-to-open-up-greenbelt-to-housing-development/article_6ee26ac3-7e09-52d3-b011-a14bc7a55db4.html and; CBC News, "Ford abandons proposal for Greenbelt development after blowback," CBC (May 1, 2018), online: <https://www.cbc.ca/news/canada/toronto/ford-wynne-greenbelt-development-election-1.4643189>

[32] Shortly after the February statement became public, Mr. Ford stated "[t]he people have spoken — we won't touch the Greenbelt. Very simple. That's it, the people have spoken. I'm going to listen to them. They don't want me to touch the Greenbelt, we won't touch the Greenbelt."⁵

[33] This became the government's official position throughout its first term, from the June 2018 election to May 2, 2022. All witnesses I heard from were consistent on this point, including Minister Steve Clark, his former Chief of Staff Luca Bucci, his Interim Chief of Staff Kirstin Jensen, Deputy Minister Kate Manson-Smith, Assistant Deputy Minister of the Planning and Growth Division Sean Fraser, Premier Ford's Director of Housing Policy Jae Truesdell, and Patrick Sackville, who was Premier Ford's Director of Forward Planning from September 2021 to September 2022, Principal Secretary from September 2022 to January 2023, and then became Premier Ford's Chief of Staff.

[34] Jamie Wallace, Premier Ford's Chief of Staff from June 2019 to January 2023, said that he was always aware of the Greenbelt as an option for building housing, noting he had written articles about it as a journalist many years earlier. He said that in early 2022 when it was announced that housing starts had decreased to approximately 86,000, there was a conversation in the Premier's Office about needing to look at options to address the problem. These were held with Amin Massoudi, Premier Ford's principal secretary from June 2019 to the end of August 2022, and Andrew Sidnell, Premier Ford's deputy chief of staff and head of policy from September 2021 to October 2022. Mr. Wallace suggested that the decrease in housing starts may have been an impetus for looking at the Greenbelt.

[35] Similarly, Mr. Sidnell advised that he too was always aware of the Greenbelt "as a lever to pull" with respect to increasing housing supply. He believes that, prior to the 2022 election, he likely discussed this option with Mr. Truesdell, who worked on his team at the time. However, Mr. Sidnell did not recall discussing it with anyone else prior to or during the 2022 provincial election.

⁵ CBC News, "Ford abandons proposal for Greenbelt development after blowback," CBC (May 1, 2018), online: <https://www.cbc.ca/news/canada/toronto/ford-wynne-greenbelt-development-election-1.4643189>

[36] Mr. Massoudi said that he recalled the Greenbelt arising during the 2018 election campaign, that it was determined at that time that conditions did not justify “moving things in that direction,” and that that position was “hard and fast” for the next few years. He did not recall it being discussed again until after the 2022 election.

[37] All the public servants we interviewed told me that they learned the government was considering removing land from the Greenbelt for development either by reading the mandate letter sent to Minister Steve Clark by Premier Ford in 2022, or during the process of drafting the mandate letter. This includes both political staff and officials from the Ministry of Municipal Affairs and Housing. The exception is Mr. Sidnell, who said he may have discussed it with Mr. Truesdell prior to the election.

The 2022 Mandate Letters

[38] Mr. Truesdell advised that during the election campaign, he and two other members of the policy team in the Premier’s Office worked on developing items for inclusion in the mandate letters. They eventually prepared a Power Point presentation with bullet points of possible policy items, organized into “buckets” or themes.

[39] Mr. Truesdell advised that one of the items he and his colleagues considered was to develop a process and criteria for considering removals and additions to the Greenbelt, with the goal of increasing the housing supply.

[40] At the conclusion of the election, Mr. Truesdell and his colleagues reviewed their work with their manager Mr. Sidnell and then refined the proposed draft content for the mandate letters.

[41] Mr. Sidnell explained the further steps in drafting and finalizing the mandate letters. He circulated the draft content, comprised of point form bullet points, to a larger group of people within the Premier’s Office and organized a series of meetings to review it and obtain their feedback. After those meetings concluded, Mr. Sidnell, Mr. Wallace and Mr. Massoudi briefed Premier Ford about the proposed content. After Premier Ford approved the draft content, it was

sent to Cabinet Office, which took the bullet point items and used them to create formal letters to the ministers. These letters were ultimately approved and signed by the premier.

[42] A significant number of people had access to the content of the mandate letters, including the Greenbelt item in Minister Clark's letter.

[43] Mr. Sidnell advised that 10 members of his policy team had access to the draft content of the mandate letters, including Mr. Truesdell and Mr. Sackville (who worked on the policy team until September 2022). He said an additional four people, who joined his team in the summer of 2022, also had access to copies of the signed mandate letters.

[44] Mr. Sidnell confirmed that, outside of his policy team, he shared the draft content of the mandate letters with Mr. Wallace, Mr. Massoudi, and four deputy chiefs of staff to Premier Ford.

[45] In addition to these 20 political staff, additional members of the public service working in Cabinet Office also had access to the drafts and final versions of the mandate letters in the course of their work.

[46] Premier Ford confirmed that generally he discussed the mandate letters with his cabinet ministers, public servants and members of his government transition team.

[47] Obviously, each mandate letter was ultimately shared with the relevant minister and deputy minister, who then shared it with key members of their staff as required.

[48] In Minister Clark's office, his mandate letter was shared with his then-Interim Chief of Staff (now his Deputy Chief of Staff) Kirstin Jensen, and then with his new Chief of Staff Ryan Amato. With respect to ministry public servants, the Deputy Minister of Municipal Affairs and Housing Kate Manson-Smith advised that her executive assistant had access to the mandate letter, and relevant portions were shared with her assistant deputy ministers, in accordance with their respective areas of responsibility.

The Greenbelt Item in Minister Clark's Mandate Letter

[49] The final version of the mandate letter sent by Premier Ford to Minister Clark on June 29, 2022, includes a Greenbelt item.

[50] Before getting to the wording of that item, I want to note clearly that this government has taken the position that mandate letters are confidential cabinet records subject to the mandatory cabinet records exemption in section 12 of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"). The government promptly responded to my request for a copy of the relevant portion of the mandate letter by providing me with a redacted copy, and it consented to my disclosure of it in this report, but confirmed that it is not waiving its rights to assert the cabinet records exemption of FIPPA or the principle of public interest immunity in respect of any part of the letter in future.

[51] Given the relevance of this item to the inquiry, I find that it is critical to refer to the exact wording of this item of the mandate letter to Minister Clark:

In Fall 2022, complete work to codify processes for swaps, expansions, contractions and policy updates for the Greenbelt. In addition, conduct a comprehensive review of the mandate of the Greenbelt Council and Greenbelt Foundation. This should include a comprehensive plan to expand and protect the Greenbelt.

[52] Mr. Sidnell told me that the Greenbelt item in the mandate letter arose in the context of his team looking at many different ways of approaching Ontario's housing crisis, a priority he understood this government as having been elected to solve. He gave examples of looking at the availability of labour, zoning rules and the land supply. He said that looking at the Greenbelt to increase the land supply "would have been just one of the slices of pie to look at." He said "It is not a new concept. It's something that has always existed as a potential option to deal with housing and I wasn't in a place to take that off the list."

[53] Mr. Sidnell told me that the mandate letters are directions to the ministers that "here are the things you need to go explore" and with respect to the Greenbelt item in particular, Minister Clark and his team were to "explore the possibility of" using Greenbelt lands for housing.

[54] I heard from several witnesses, both political staff and ministry officials, that not every item in a mandate letter moves forward. Mr. Sidnell was asked how it was decided which items move forward. He explained there is “sort of a feedback loop between the Premier, the Premier’s Office and the ministers in their offices in terms of what is actually achievable once we start to get professional advice from the public service in the different ministries – whether or not this is something that can actually be implemented or maybe it’s implemented in a different way. You go back and forth and then some of those things eventually are either too ambitious or they get cut off the list for impracticality reasons. Or, they do move forward and the minister will come back with a plan to actually implement them. Then, in the similar way to the mandate letters being drafted, you go back and forth as an office and as minister, as premier, and then you eventually kind of get to whatever is going to come to cabinet.”

[55] With respect to how the back and forth occurs, Mr. Sidnell advised that he would expect there to be contact between the minister’s chief of staff and the premier’s policy advisor. He said the Premier’s Office would be the senior partner in the relationship and the ministry will be the subject matter expert in the relationship. He suggested Cabinet Office staff would probably be checking in with senior people in the housing ministry to see how they were progressing.

Minister Clark’s Receipt of the Mandate Letter

[56] Minister Clark told me he first learned of the idea of taking land from the Greenbelt for housing when he received the mandate letter following the 2022 election. He recalls he and Deputy Minister Manson-Smith were together at the time, in the Regina airport waiting to return home from a federal-provincial-territorial meeting of housing ministers. He told me he considered it “a significant change” to go from a term where the Greenbelt was not going to be touched, to one where he was to develop a policy regarding Greenbelt removals and additions by a date in the fall of 2022.

[57] Minister Clark advised that there are a number of aspects to a mandate letter and, upon reading it, he understood the deputy minister would take it away and provide a path forward.

[58] Minister Clark advised that at some point after receiving the letter, he spoke with Mr. Wallace to express his view that his mandate letter was very significant, in that he was expected to implement a lot of policy in a very short period of time and that the Greenbelt item was completely opposite to what he had said in the previous term. When asked what Mr. Wallace said in response, Minister Clark said “not very much.”

[59] Minister Clark advised he also spoke to Premier Ford. With respect to what was said during that conversation, he recalled “obviously he wrote the mandate letter, so he was very interested in me moving forward on the items that there were in the letter, which I did.” Premier Ford advised that his advice to Minister Clark “was limited to the general policy direction prescribed in the mandate letter (building 1.5 million homes over 10 years to help address Ontario’s housing crisis), which did not include any references to specific site selection within the Greenbelt.”

[60] Minister Clark advised that “ultimately at the end of the day, it’s my job as minister to take the mandate letter and provide recommendations on the mandate letter. Ultimately, it’s cabinet’s decision whether those items move forward or not.”

How Ministry Officials Understood and Took Initial Steps to Implement the Greenbelt Item in the Mandate Letter

[61] Consistent with Minister Clark’s observation that developing a policy with respect to the Greenbelt was a significant change from the first term, Deputy Minister Manson-Smith told me that when she first discussed the Greenbelt item with the minister, “I think we both expressed something along the lines of surprise that it was included in the mandate letter.”

[62] Ms. Manson-Smith described mandate letters as “high level” and advised there is a lot of work to unpack what they mean. Upon receiving the 2022 mandate letter, she shared relevant portions with the assistant deputy ministers responsible for each topic area. Accordingly, she notified Assistant Deputy Minister Sean Fraser of the Greenbelt item. However, with respect to that particular item, she also explained that “[t]here was then a period of time when we had no further direction on the implementation of the direction in the mandate letter.” She recalls that

changed in late August 2022 when Minister Clark's new Chief of Staff Ryan Amato told her the government wanted to move forward with it at this time.

[63] Mr. Fraser recalled the direction in the mandate letter as indicating there was an interest in exploring policy options around land exchanges. He said Ms. Manson-Smith told him not to do any work on the matter until further direction was received. This came in the second half of August 2022. At that time, Ms. Manson-Smith told him that Mr. Amato said the government was interested in understanding some of the possible options. She asked Mr. Fraser to pull some material together and attend a discussion with Mr. Amato.

[64] Mr. Fraser then asked the Director of the Provincial Land Use Plan Branch to prepare a document outlining the government's tools or options in this space. Mr. Fraser recalled these high-level options as (1) use of the minister's existing policy tools to permit housing development in the Greenbelt, (2) making changes to the Greenbelt policy to allow things to happen in the Greenbelt that were then prohibited, and (3) site-specific removals of particular properties from the Greenbelt.

[65] Calendars confirm that Mr. Amato, Ms. Manson-Smith, her executive assistant and Mr. Fraser met on August 30, 2022 to discuss the Greenbelt options.

[66] Mr. Fraser recalled laying out the three general paths identified. He said he identified that if lands were being considered for removal, the criteria would be extremely important, because there is a huge number of property owners in the Greenbelt and properties of all different types and conditions. If the government wanted to focus on lands for housing, they would need to clearly define the criteria for that purpose. If the criteria are tight, specific and can be discerning, the response will be managed. He said "it is a difference of will you have hundreds of people ask to be removed or will you have tens of thousands of people asking to be removed." He also told Mr. Amato that "one way to do this would be obviously to have an open call saying, 'The government wants to build housing. The government is looking for lands that meet certain criteria. Please bring them forward and tell us about them.' Like that strategic approach was discussed at that point, saying this would be...you would get the largest number, you will get the

most feedback, you would get sort of a breadth across the system, transparent... Like if you are going down this road, that would be the preferable road to take or the preferable way to do it.”

[67] Mr. Fraser told me that at the end of this August meeting, he understood that Mr. Amato would take their advice away, look at it and think about it. He said there was no further direction until later in the next month, September 2022.

[68] A copy of the August discussion document was provided to me in the course of this inquiry. Ministry counsel asserted cabinet privilege over this document, which was shared by officials only with Mr. Amato. The government has consented to my use of this document in this inquiry, including referencing it in my report but advises it has generally not waived its right with respect to public interest immunity. I find it very relevant evidence of advice given by ministry officials to Mr. Amato in the late summer of 2022. It corroborates Mr. Fraser’s recollection of the high-level options he outlined at the August meeting and identifies various factors for the government to consider, risks and general timeframes for the three approaches. It specifies that “700 plus site specific requests” were received during the last 10-year review in 2015-2017 and clearly documents the officials’ advice that “[a]ny process to remove lands from the Greenbelt will be highly contentious, complicated, require balancing interests and will take time to deliver (i.e. develop process, review requests/candidate sites, mapping, consultation, negotiations, Duty to Consult, approvals, etc.)” It lists under considerations “[n]eed criteria to manage removals/designations in measured way and need to be balanced by additions” and “[t]ransparent and equitable process for property owners.” It also notes “[d]etailed mapping and analysis would be required following consultation – depending on scope, likely to be highly time and resource intensive.”

How the Minister’s Chiefs of Staff Understood and Implemented the Greenbelt Item

[69] I heard during this inquiry that, following an election, while the Premier decides who will be the members of his cabinet and the content of their mandate letters, his chief of staff decides who will be the chief of staff to each minister. Minister Clark confirmed that the Premier’s chief of staff makes this decision and while he was consulted about the hiring of two of the four chiefs

of staff who have worked for him, he was not consulted about the other two, including the chief of staff assigned to him in 2022.

[70] At the time the mandate letter was sent to Minister Clark, Mr. Wallace had not yet decided who would become the minister's chief of staff. Luca Bucci had held the role from January 2021 to March 30, 2022. Kirstin Jensen, the minister's director of policy, became the interim chief of staff and was in that role when the minister's mandate letter was received.

[71] As the interim chief of staff, Ms. Jensen reviewed the mandate letter. Like the other witnesses, she said that was when she first learned the government was considering removing land from the Greenbelt for housing development. She also said "there was a direction in the mandate letter to consider this as a policy option. But, to be honest, I wasn't actually sure that that was ever going to happen, because the mandate letter has a number of different policy directions that are given in it, but not every ministry follows through on all of them." She confirmed that during the government's first term and up to the 2022 election, she had worked on earlier "Growing the Greenbelt" public consultations and policy, with the goal of expanding the Greenbelt in the areas of the Paris Galt Moraine and in urban river valleys, but had done no policy work prior to the election with respect to removals or redesignations to permit development.

[72] Ms. Jensen took no action upon reviewing the mandate letter. She explained that "the way it works after the election is that the minister at that time doesn't know who his chief of staff is. I had no idea if I was continuing to be chief of staff. And so, until the Premier's Office determined who the chiefs of staff were for every single ministry, the mandate letter was just a letter that was given to us and there was no direction to move forward until all the offices were established." She said "[t]he mandate letter at that point, until the chiefs of staff were set, was completely on lockdown."

[73] Mr. Amato was chosen as Minister Clark's new Chief of Staff and began work on July 7, 2022. Mr. Amato had not previously worked as a chief of staff. He said he received no training upon taking this role. Asked specifically about any training about the Act or about the obligations

of ministers' staff under the *Public Service of Ontario Act, 2006* ["PSOA"], he said he had not received any such training while he worked for Minister Clark or for his earlier minister. Minister Clark said he was not aware of any training provided to any chief of staff and specifically did not recall any conversations with Mr. Amato about the minister's responsibilities under the *Members' Integrity Act, 1994* and the minister's expectations in that regard.

[74] Mr. Amato advised that it was shortly thereafter that he read the mandate letter and first became aware the government was considering removing land from the Greenbelt for development. His understanding of the Greenbelt item in the mandate letter was that "they wanted us to develop a program for Greenbelt land swaps." He said that he then had an initial conversation with Minister Clark about it and said "this is something we're probably never going to do" and that Minister Clark agreed. When Mr. Amato's evidence about this conversation was put to Minister Clark, Minister Clark said they probably did have this brief conversation. Minister Clark noted that "ultimately it's cabinet's decision whether we move forward or not."

[75] When asked why he held this view, Mr. Amato explained that he assumed it was "good public policy" but "bad politics." He told me it was good public policy because land is something you can't make more of and it's an economics lesson that if there is a limited supply of something the price will go up. He told me it was "bad politics," in that it "would be an election issue in four years." He understood the rationale was about providing more land for housing, to combat the housing affordability crisis and trying to get those prices down. Using Greenbelt land for housing was one of several levers he understood the government wanted to pull at the same time, including other measures that were incorporated into Bill 23, the *More Homes Built Faster Act, 2022*, which was introduced by Minister Clark on October 25, 2022.

[76] When presented with the evidence from Ms. Manson-Smith with respect to timing, that it was around mid-August when he told her that the government was interested in exploring options with respect to the Greenbelt, Mr. Amato advised "Well, I mean, I think if the mandate letter was clear, that they...I was asked to look at options, so, I mean I am very linear. I start checking things off the mandate letter, so we would have had that conversation."

[77] Mr. Amato said he had no recollection of meeting with Ms. Manson-Smith and Mr. Fraser about their initial advice on August 30, 2022. During the interview, he was given an opportunity to review the advice document prepared by the ministry officials for the meeting. He said he still had no recollection of the meeting “but I think if you see where we ended up with our Greenbelt policy, like, pieces of these suggestions were taken to the program that was eventually designed.” He explained he was “drinking from the firehose” in August 2022, noting that he was still doing his transition into a new ministry, the Association of Municipalities of Ontario held its conference, there was work being done on the Housing Supply Action Plan in preparation for what became Bill 23, there was strong mayors legislation being introduced, and there was official plans work being done.

[78] Mr. Amato agreed it was possible, or likely, that at the conclusion of the August 30, 2022 meeting he told Ms. Manson-Smith and Mr. Fraser that he would take away their advice, look at it and think about it. He said they often put forward information decks to him about their recommended approaches, he “will go away and think about it and come back with questions or thoughts or ideas and we bounce them back. That is how we develop policy at the ministry.” Asked if he discussed this advice with anyone and specifically Minister Clark, Mr. Sackville, and Mr. Truesdell, he said no. Asked why he wouldn’t go to the Premier’s Housing Policy Advisor, he said “I didn’t think we were going to do this. I have to bring them stuff we are working on... Jae doesn’t just hold the housing file, he deals with a lot of other ministries too and I can’t bring them things that we might not do.” With respect to Minister Clark, Mr. Amato said “it wasn’t the priority of the day.”

[79] Mr. Amato recalled that he “got the first instance that we were going to have to develop a program and that was a serious line in the mandate letter” after a meeting with Cabinet Office officials and officials from his ministry, including Ms. Manson-Smith. Based on calendar entries, other records referring to this meeting and evidence from a number of witnesses, I find this meeting took place on September 7, 2022. It was organized by Cabinet Office, the subject of the calendar invitation was “MMAH – Minister’s Mandate Priorities Discussion w/PO/CO” and invitees included senior staff from the Premier’s Office, Cabinet Office, the Ministry of Municipal

Affairs and Housing and Mr. Amato. The body of the invitation states “Purpose: To discuss the mandate priorities and provide an opportunity to seek alignment around scoping, timelines and expectations of commitment, and provide ministries a chance to seek any clarifications on specific priority items.”

The BILD Dinner

[80] On September 14, 2022, about a week after the mandate priorities discussion, Mr. Amato attended the Building Industry and Land Development (BILD) Association Chair’s Dinner 2022. His attendance there was not unanticipated. Likely a significant number of people were interested in meeting with Minister Clark’s new chief of staff and we heard from representatives of two development companies who raised with Mr. Amato that they had properties that should be removed from the Greenbelt.

Silvio De Gasperis and his Table

[81] Silvio De Gasperis is founder, president and chief executive officer of the TACC Group of Companies. A biography published on the BILD website says TACC Group employs more than 2,000 people and “is one of the largest privately owned employers in the construction and land development industry in the GTA”.⁶ Its holdings include TACC Developments, TACC Construction, DECAST, and DECO Homes.

[82] Mr. De Gasperis has been advocating for the removal of lands in the Cherrywood area of Pickering from the Greenbelt since the inception of the Greenbelt. Public records indicate he unsuccessfully litigated development restrictions on the Cherrywood lands⁷ and he told me that he has raised it with every chief of staff to the Minister of Municipal Affairs and Housing over the past two decades. He said he raised it directly with Premier Ford after the 2018 election, telling him Cherrywood is the perfect land for housing and that in his view the Cherrywood landowners were treated unfairly by former Premier Dalton McGuinty’s government when the lands were

⁶ BILD Awards 2023, “BILD Lifetime Achievement Award”, online: <https://bildawards.com/bildawards2023/en/page/lifetime>

⁷ Leave to the Supreme Court of Canada was dismissed on February 15, 2007, 2007 CanLII 11285 (SCC).

included in the Greenbelt. He said that Premier Ford told him then, in 2018, that he could not do it, and that he made a commitment not to touch the Greenbelt.

[83] Premier Ford acknowledged he has met Mr. De Gasperis, but advised he had no discussions with him “in respect to any property in the Greenbelt or which may have been removed or re-designated within the Greenbelt in 2022.”

[84] Mr. De Gasperis told me that he noted during the 2022 election campaign that the Greenbelt was not discussed, but building Highway 413 was discussed. The proposed highway runs through Greenbelt lands. This suggested to him there might be an opportunity to revisit the government’s Greenbelt policy.

[85] Mr. De Gasperis advised he was aware ahead of time that he would be seated with Mr. Amato at the BILD dinner. He had previously met Mr. Amato, several years ago when the latter worked for Patrick Brown and more recently, when Mr. De Gasperis had some business issues to resolve with the Ministry of Transportation while Mr. Amato worked in the Office of the Minister of Transportation. These were generally related to the design of highway ramps and their impact on a particular subdivision development. He recalled, and Mr. Amato agreed, that Mr. Amato had facilitated some meetings with engineers and other subject matter experts from the public service to try to resolve these issues.

[86] In preparation for the BILD dinner, Mr. De Gasperis asked his daughter Alana De Gasperis, Director of Planning and Corporate Affairs for TACC Developments, to put together a package of information about Cherrywood, supporting its removal from the Greenbelt for development, for him to give to Mr. Amato.

[87] At the dinner, Mr. De Gasperis said that he pulled Mr. Amato aside and said, “I have a package I want you to take a look at – there was an injustice done at Cherrywood and I want you to take a look.” He said he told Mr. Amato that if he had any questions about it, he should contact his daughter, Alana. He recalls that Mr. Amato said to leave it with him and that he would take a look.

[88] Mr. De Gasperis said he did not raise any other properties with Mr. Amato at the BILD dinner because Cherrywood is the one that “really, really mattered” to him, that it was the biggest disappointment in his career, and he felt very strongly that he had been mistreated. Mr. De Gasperis said he did not recall, but it was possible he may have raised other issues with Mr. Amato at the dinner, stating “I always have something to complain about.” He gave me examples of development charges being too high, insufficient credit for parkland, and a specific disagreement with a municipality about the appropriate credit to be given for stormwater facilities.

[89] Ms. De Gasperis told me that she had been involved with five Greenbelt removal requests during the 2015-2017 10-year review process, one of which was generally if not entirely successful, with portions of that property removed from the Greenbelt at that time. She noted that she did not see an opportunity to raise these requests again until the 2022 election, when she observed the PC Party did not renew its commitment not to touch the Greenbelt. From that silence, she saw an opening that it might be reconsidering that position.

[90] Ms. De Gasperis told me that prior to the BILD dinner she was also aware that she and her father would be seated at the same table as Mr. Amato. She advised that they generally bought multiple tables, with space for seating minister’s staff. She said Mr. De Gasperis’s executive assistant generally makes arrangements with respect to tickets and seating, and it was possible that the executive assistant arranged it or that BILD arranged it. She had met Mr. Amato for the first time the week before the BILD dinner, on September 7, 2022, at the launch party for the OnPoint Strategy Group, a lobbying and public affairs firm. She did not recall who introduced them at that event and believes they said a brief hello. She says they did not discuss the Greenbelt.

[91] Ms. De Gasperis also told me that she put together a package of information supporting the removal of the Cherrywood lands from the Greenbelt for development. She placed it in an envelope and gave it to her father with the understanding that he would give it to Mr. Amato at the BILD dinner. At the event, she was seated across the table from Mr. Amato. She advised she did not speak very much to Mr. Amato, as they were not seated side by side and she arrived

shortly before the dinner started and left immediately afterwards. However, she did speak briefly to him, said a “quick hello” and confirmed he had received the package of information. When asked what Mr. Amato said, she advised she believes he said “thank you.”

[92] Mr. Amato also recalled that he was seated at the same table as Mr. and Ms. De Gasperis. Asked about the conversation about this property, he said “Nothing out of the ordinary. They have owned this property for a long time, and I was the new chief of staff, and they wanted to make their pitch for why this should be ... their pitch that they have been doing quite publicly for a long time as to why this land should be removed. I said we would take a look at it and they gave me the document.” Asked what he did with the package of information, Mr. Amato advised that “I put it on the backseat of my car, went home. And I knew we were developing a Greenbelt policy, so I asked my officials to look at the Cherrywood site and provided them with a copy.”

[93] Jack Eisenberger told me that he also sat at the same table as Mr. De Gasperis and Mr. Amato at the BILD dinner. Mr. Eisenberger is the President of Fieldgate Homes. His company owns properties with Mr. De Gasperis in two areas (Book Road and Leslie Elgin) that were removed from the Greenbelt in 2022. Mr. Eisenberger told me that he does not recall speaking with Mr. Amato at this dinner. He believes they likely exchanged pleasantries but did not discuss the Greenbelt. He said he stayed at the event only a short time, around 30 to 45 minutes. I have no reason to believe they discussed the Greenbelt at this dinner and have included this evidence in the interest of transparency.

Michael Rice

[94] Michael Rice leads the Rice Group of Companies. Mr. Rice explained that the Rice Group is a traditional land developer -- it buys land, takes it through the development process and frequently retains industrial and commercial assets. When it has a residential development project, it either sells lots or it partners with other companies that specialize in residential development.

[95] Mr. Rice advised that for many years he has believed that the Greenbelt would need to be opened to some extent for housing development, as he is of the view that it has caused a land

shortage which has increased the price of housing. He told me that he believes Ontario has had a housing crisis since at least 2017, and all political parties agree that many homes need to be built. He explained that he was aware of Premier Ford's statements about opening up the Greenbelt in early 2018, and has observed that since being elected in 2018, this government has taken steps that indicated to him the "writing was on the wall" that lands in the Greenbelt would be opened for development. He cited as examples the *More Homes More Choice Act, 2019*, the ability of the Minister of Municipal Affairs and Housing to decide growth areas, and the reduced role for conservation authorities and consideration of endangered species. In December 2021, he asked his staff to identify potential land acquisitions in the Greenbelt that met specified criteria. Pursuant to this plan, on May 3, 2022 he entered into an agreement of purchase and sale to purchase a 687-acre property in King Township offered for public sale by Schickedanz Bros. on March 28, 2022. The deal for this property was closing on September 15, 2022.

[96] Mr. Rice told me he had previously met Mr. Amato at a handful of political fundraisers or other events, while the latter worked for the Minister of Transportation. He had also assisted in hosting a political fundraiser for the Minister of Transportation in early 2022, with which Mr. Amato had very limited contact. These details are covered later in this report at paragraph 279. Mr. Amato initially told me he did not recall if he had met Mr. Rice prior to the BILD dinner.

[97] Both agree they spoke briefly at the BILD dinner. Mr. Rice told me that, as the closing of the King Township property was the next day and on his mind, he said to Mr. Amato "Hey, if you guys are looking at the Greenbelt lands, I have something great that is the site you need to look at." Mr. Rice says that Mr. Amato responded "okay."

[98] Mr. Amato recalled Mr. Rice mentioning a property to him in passing at the BILD dinner. Specifically, he recalled Mr. Rice saying that he had some property in the Greenbelt and if we were to do something, he would like us to take a look at it. He says he responded to Mr. Rice by saying "I will let you know."

September 15, 2022: "They are very serious"

[99] Mr. Amato told me that in the fall of 2022 he sought clarification directly from Premier Ford with respect to the Greenbelt item in the mandate letter.

[100] Mr. Amato says he did this during a meeting in Premier Ford's office, with Premier Ford, Mr. Sackville, and Minister Clark. Mr. Amato could not recall exactly when or why this meeting was taking place, but believed it was about a subject other than the Greenbelt. He told me he raised the Greenbelt item because "I think I have previously stated, that the best way to do something that I view as bad politics was the furthest day from the next election, so we wanted to take the opportunity to get clarity on that point." He said that he asked Premier Ford something along the lines of "respectfully sir, are we, is this something that needs to be done or is this one of the things we might not do?" Mr. Amato does not recall who responded, whether it was Premier Ford or Mr. Sackville, and what words were spoken, but said he left that meeting with a clear understanding that something needed to be done.

[101] Asked if he talked to Minister Clark about this clear understanding he had leaving the meeting, Mr. Amato said:

I think I would have just said, "Leave it with me" and we were both kind of shocked that we were... we were both kind of taken aback that that we were actually going to do this, but we had an understanding that something needed to be done. And I didn't want to, as I think I have previously said a few times, I didn't want to waste ministerial time or government time on something that I thought was going to fail, which is why the group was so small when we were dealing with it. So I think that is why I would have said, "Leave it with me."

[102] Mr. Amato was asked if something is likely to fail if the premier and Mr. Sackville want to do it. Mr. Amato responded that the way our system of government is set up, cabinet makes decisions. He explained "we govern by recommendations to cabinet and cabinet approves, so I imagine there have been things that the premier has wanted to do that the cabinet has not been able to get through, so we do have rules and laws that we have to follow."

[103] Premier Ford, Minister Clark and Mr. Sackville have no recollection of this meeting.

[104] On September 15, 2022, Mr. Amato exchanged text messages with Ms. Jensen, including the following:

RA: They are very serious

KJ: Good luck. Who is?

RA: Pat. And premier

KJ: Serious about doing Greenbelt swaps?

RA: I'll have to drop off. We will chat after. But yes.

[105] Mr. Amato confirmed he sent this text message but remained adamant during three days of interviews with me that, throughout his work on this project, he believed it would not ultimately proceed. He said "I thought we were never going to be ... like, I am still sitting here in this interview with you guys. I'm surprised we are here. Not that you're doing your ... just that the policy went forward." He was reminded of the steps taken with ministry officials and asked when he thought the plug might get pulled on this project. He said "I didn't know. I thought this was going to be one of two things: it was going to be, like, a white rabbit I chased for four years that never happened, or it was just, when it came to decision-makers, it was going to be, like, 'You know what, we're not going to do this.' "

[Direction to Ministry Officials to Move Forward with Site Specific Removals](#)

September 21, 2022 Meeting

[106] Mr. Fraser advised that "later in September" Ms. Manson-Smith reached out to let him know that there was interest in specific properties being removed from the Greenbelt and another meeting with Mr. Amato was being arranged.

[107] Calendar invitations confirm this meeting took place on September 21, 2022, and that an additional person, the ministry's legal director, also attended.

[108] An updated version of the earlier discussion document was prepared by the Director of the Provincial Land Use Plan Branch for use at this meeting, although she herself did not attend. The file name for this document is "confidential briefing – 09.14.22.pdf". This is mentioned as an

additional piece of evidence to assist in determining the date when Mr. Amato indicated to Ms. Manson-Smith this further direction that there was interest in specific properties being removed from the Greenbelt. Ms. Manson Smith recalled that the meeting took place in early September.

[109] At the September 21, 2022 meeting, Mr. Fraser recalls receiving direction from Mr. Amato that there were two properties the government wanted to bring forward to remove from the Greenbelt. He understood these were priority properties for consulting on removing from the Greenbelt and it was the government's objective to achieve this. He recalls one of them was Cherrywood, because one of the things he took away from the meeting was to ask staff about the specific area, as he was not quite sure what land this name referenced. He believes the second property identified by Mr. Amato at that time was the King Township property. These are the two properties on which Mr. Amato received information, or was told about, at the September 14 BILD dinner.

[110] Mr. Fraser told me that at this meeting they talked about the time, process and logistics required for site specific removals, including cabinet consideration, posting for public consultation on the Environmental Registry of Ontario, and replacing any land removed. He said that, as they earlier discussed in August, the ministry officials advised that from a policy perspective, taking this direction would elicit strong extreme criticism and that there were obviously political risks in doing so and given the government's commitment to date [not to touch the Greenbelt] that this kind of a shift would be a "really significantly challenging process to work through." He recalls Mr. Amato saying he agreed.

[111] Mr. Fraser recalls Mr. Amato asking about land exchanges, and whether if lands were removed, lands nearby could be added and if there was an opportunity to "net that into the positive in close proximity." This would include owners of lands being removed being responsible for putting forward lands to be added. He said that ministry officials advised there were a number of challenges, including whether such situations existed, where a single owner held both lands that could be removed and additional lands nearby that could be added. Mr. Fraser advised some challenges with this approach could not be disclosed during this inquiry because of solicitor-client privilege but that this approach was anticipated to take a long time and government had

indicated its clear intent to move forward with the initiative quickly. The discussion documents for both the August and September meetings state additions would be required to counter any removals and identified the opportunity to build on earlier public consultations done with respect to adding land to the Greenbelt in the Paris Galt Moraine area and in urban river valleys.

[112] Mr. Fraser recalled the September 21, 2022 meeting ended with the ministry staff saying they would look at the size and scale of the properties, what is on them, where they are, and what removal would entail.

[113] Ms. Manson-Smith said she could not recall specifics of what was discussed in August versus September, but generally recalled asking her staff to set out top-line advice about what the government might want to consider. She said the early conversation in August 2022 was along the lines of “how do we do this” and covered the advice mentioned in the discussion document. Consistent with Mr. Fraser, she said they discussed that “you could take a policy-based approach and change the policies of the Greenbelt so that more development was possible on lands in the Greenbelt or you could remove lands from the Greenbelt.” She said that in every conversation in August and September about this project with Mr. Amato they discussed that a lot of people would want changes, meaning they would want their land considered for removal from the Greenbelt or to be subject to policy changes that would permit development on it. She also recalled discussions about the need for criteria to support removing the properties that would support the ability to build housing quickly. She said she then received direction from Mr. Amato that “[t]he government made a decision they wanted to take a site-specific approach as best meeting their objectives.” She said she received that direction in late August or early September to the best of her recollection. I find that it is more likely than not that she received that direction after the September 7 meeting to review the mandate letter with staff from the Premier’s Office and Cabinet Office and before the meeting of September 21 where site specific removals were discussed.

[114] There is a document that corroborates the recollection of these officials about what direction was given when. The discussion document prepared by the Director of the Provincial

Land Use Plan Branch for the September 21, 2022 meeting with Mr. Amato⁸ is an updated version of the document that was used for the August meeting, with only a few changes. I note generally that one of the few changes is the addition of a section that clearly summarized the benefits, risks and work required to proceed with a site-specific review only. This addition corroborates the recollection of the deputy minister and assistant deputy minister that before this meeting they received information that the government was interested in removing specific properties.

[115] Mr. Amato said he did not recall the September 21, 2022 meeting, but when presented with the evidence of Mr. Fraser and Ms. Manson-Smith about what was discussed, he agreed those matters were discussed. When asked to confirm whether he told them that the government wanted to remove the Cherrywood and King Township properties, he said “I believe that we were going in the site-specific ... my gut was ‘let’s do site-specific to start a programmatic approach in a conversation,’ so I would have been talking about specific properties at that point. And Cherrywood would have jumped to mind because I believe I would have received it a couple of days earlier, so I would have had it on my desk.”

[116] Mr. Amato advised that he did not discuss the advice given by the ministry officials at the September 21, 2022 meeting with Minister Clark, any staff in the Premier’s Office or anyone else. Similarly, he says he did not share the advice document prepared by the ministry officials for that meeting with anyone else.

Evidence of Direction to Remove Properties Given After the September 21, 2022 Meeting

[117] Mr. Fraser recalled that “we got the firm and definite direction to bring forward a proposal to remove properties in that late September window. And we were already tracking for a significant policy submission for late October and we were told, at the time, to bring this initiative into alignment with its timing, with the initiative that ultimately rolled out October 25 [Bill 23]. We didn’t make it, but that was what we were told to do at the time. So we were told we had a little less than a month.” Asked exactly what his team was to do in that month, he said “Bring

⁸ Again, ministry counsel asserted cabinet privilege over this document, which was shared only with Mr. Amato. The government has consented to my use of this document in this inquiry, including referencing it there, but advises it has generally not waived its right with respect to public interest immunity.

forward all the material, get the necessary detail to get direction from cabinet to consult, to get the postings ready, get the mapping ready, get the package ready that you could post it.”

[118] There is some contemporaneous documentation relevant to the direction given by Mr. Amato in late September.

[119] Two days after the September 21, 2022 meeting, on Friday, September 23, 2022, a text message sent from Mr. Amato to Ms. Manson-Smith at 4:07 p.m. states: “I will call you in a bit. I have some clear direction. On everything + GB. OPs and bill. Just had an hour chat with Pat.”⁹ Ms. Manson-Smith responded “Amazing” to which Mr. Amato replied, “You won’t say that when we speak timelines aren’t helpful but clear direction.”

[120] Mr. Amato did not have any independent recollection of the events mentioned in the text message. He confirmed the “Pat” referenced in the message is Patrick Sackville, but he also said he did not recall speaking with Mr. Sackville. He noted this would have been “right around the time we were seeking clarification on stuff to do with [Bill 23], when are we announcing it. Like it would have been an overarching strategy package.” Asked if he would have discussed the officials’ advice or asked for Mr. Sackville’s advice about the Greenbelt options, he said: “Look, we were talking about so many things at the same time, I don’t think I was soliciting advice. I was soliciting timelines, when should we release? We were building work schedules in, like, how quick should we go or not...” It was noted that the text referenced a one-hour discussion with Mr. Sackville, and Mr. Amato was asked if the discussion could have also included more substantive issues than timelines. He indicated that he and Mr. Sackville are friends, and they may have had a discussion about personal matters.

[121] Mr. Sackville advised he does not recall speaking to Mr. Amato on or around September 23, nor does he recall having an hour-long chat about the Greenbelt, official plans and Bill 23.

[122] Mr. Amato confirmed that he talked to Ms. Manson-Smith later on September 23, 2022 or early on Monday, September 26, 2022. He indicated that the direction he gave to the deputy

⁹ Witnesses confirmed GB means Greenbelt, OPs means official plans, bill is a reference to Bill 23 and Pat refers to Patrick Sackville, then Director of Forward Planning in the Premier’s Office.

minister “would have just been like ‘We are doing this and I want to do it fast,’ and things like that, right.”

[123] The following week on September 29, 2022, Ms. Manson-Smith’s executive assistant sent a text message to Mr. Amato at 3:48 p.m. It said: “Hi Ryan – trying to figure out good timing for next G Chat with Sean/Mark. I believe you were going to come back with info on the 3 sites so we can understand criteria and pathway forward (can we/how to solve). Have you had your meeting with the special project stakeholder?”¹⁰ Mr. Amato responded “Yeah. I have it. Last meeting tomorrow. I’ll sketch what I think it should be talk to M. So if we can meet Monday morning. I’ll also have the areas so we should discuss how to make a reality.”¹¹

[124] Mr. Amato said he did not recall with whom he had this last meeting. While he agreed the Greenbelt removal project was called “special project”, he also said “I don’t know why she thought I was meeting with the stakeholder, so I am not going to speculate.”

[125] Mr. Amato’s calendar contains many meetings, but it does not provide much detail. Blocks of time are held, but frequently attendees and/or the meeting purpose is not identified. This includes meetings booked around the date of this September 29, 2022 text exchange. When asked about these meetings, he advised that he did not recall them, they did not relate to the Greenbelt project and/or that he did not attend them for personal reasons.

[126] Mr. Amato confirmed that in late September he did meet with Michael Rice at the latter’s office to pick up the package of information about the King Township property. This meeting is discussed below starting at paragraph 274.

[127] Shortly after the September 29th text exchange referencing special project stakeholder meetings, on or about October 3, 2022, Mr. Amato delivered to ministry officials a list of criteria

¹⁰ Witnesses confirmed that G means Greenbelt, Sean is Assistant Deputy Minister Fraser, Mark is the Ministry’s Legal Director, and “special project” was the term used to describe what became the project of removing lands from the Greenbelt for development.

¹¹ The Executive Assistant and other witnesses told us that “M” is the usual shortform for Minister.

and eight folders, containing information about eight different properties located in the Greenbelt.

[128] Evidence from ministry officials was that by October 3, 2022, Mr. Amato had given them direction that the government had identified lands it wanted to post for removal from the Greenbelt; he had given them a list of criteria and a package of information about lands he had identified; and that he told the public servants he would like them to assess these lands against the criteria and do the work for the lands to be removed from the Greenbelt, including the work for a public consultation with respect to the removals that was to be posted around the same time Bill 23 was announced, around October 25, 2022. Mr. Amato agreed with their evidence.

[129] That said, at various times throughout his interview, Mr. Amato also said that he believed he and the ministry officials were developing something “programmatic”, or a new process. He explained that during this project “I was providing recommendations on properties with advice from officials, and we were starting the process of normalizing removals, which is why the public communications on November 4 [2022] were what they were. ‘If you felt like you weren’t captured or missed, please reach out.’ That is what the ERO is for.”¹²

Creation of the Ministry’s Greenbelt Team

[130] When the ministry received the package of information from Mr. Amato, Mr. Fraser asked the director of the Provincial Land Use Planning Branch to assemble a small team of public servants to implement the government’s direction.

[131] The director recalls being told that the government had given direction to move forward with removing properties, and had identified eight sites and criteria. She understood she was to assemble a very small team with the mix of skills required to do the work required, including looking at each of the sites, assessing if they met the criteria given, and developing a work plan to implement this direction. This included a regulation change, a posting on the ERO, arranging for mapping, and drafting a cabinet submission. The director then created a team of two senior

¹² Please see paragraphs 179 and 180 where further evidence on this point is discussed.

planners and a planner whom she assessed had the necessary policy analysis, mapping and document drafting skills for the project. Along with a new manager who had been very recently hired, she and these staff became the Greenbelt or “special project” team.

Internal Confidentiality Measures, External Buzz and “it was in play”

[132] All ministry officials involved in this project were told confidentiality was very important. Ms. Manson-Smith told me she required the members of the Greenbelt team to sign an attestation confirming they agreed to take special measures to keep the information about the project confidential. She said this was because it was a politically sensitive matter and that this would ensure proper document control. She said she had experience in budget and tax matters where you sign an undertaking that is a reminder for you not to disclose the content of the document. She said she asked everyone to sign it, including the Premier’s Office. The Greenbelt team signed their attestations on or about October 5, 2022 and commenced working on the project. The ministry officials described special steps they took throughout the project, including not using email for this project and instead using a Microsoft Teams platform, including to share documents.

[133] Mr. Amato’s evidence on this point was largely consistent with that of Ms. Manson-Smith. Asked how confidential this project was compared to other projects on which he had worked during his political career, Mr. Amato said “Highly. We put the same – my understanding is that Deputy Manson-Smith put the same protocols in place for staff that are around the budget.” He described the specific steps taken as requiring staff to sign non-disclosure agreements, holding in-person meetings and “not a lot of document creation” and agreed it included keeping the team small.

[134] In addition to ministry officials, political staff were also asked to sign attestations as they became involved in the project. I have reviewed records of communications exchanged between officials and Mr. Amato that indicate he assisted in ensuring that political staff also signed attestations. I find that the initiative around confidentiality agreements was led by the deputy minister and not Mr. Amato.

[135] Exceptionally, no record of an attestation signed by Mr. Amato was located. Mr. Amato told me he believes he signed one and that he understood if he “broke confidence, that there would be severe consequences.”

[136] When asked if he did anything with respect to confidentiality with the landowners from whom he was seeking information for this project, Mr. Amato said “[n]o. As a government, we weren’t... we were soliciting advice. We weren’t telling them... We weren’t consulting with them about the program. They were just ... we were asking them questions.” Asked if it was fair to say that the landowners were aware the government was considering removing their land from the Greenbelt or otherwise removing barriers to development, Mr. Amato said he didn’t think so. He said “when I was asked direct questions, I said ‘We haven’t made decisions and we aren’t talking about that. We’re just taking a look.’ ” He said he would say “no decisions on Greenbelt removals have been made. We are looking at your properties.” Mr. Amato told me “I’m sure they would speculate. But I think, as you can see, there was no leaks or rumour mill on our side.”

[137] Mr. Amato then acknowledged that, when asked for information about one property, Cherrywood, Ms. De Gasperis had sent in information about four properties. He said “It was ‘We would like to see some information.’ Information was shared and, like anybody, they sent more through.”

[138] Mr. Amato also recalled in the fall of 2022 being asked by the Honourable Peter Van Loan, a lawyer, lobbyist and former federal cabinet minister, whether the government’s position on the Greenbelt had changed. Mr. Amato told me “I think he reached out to me when he was ... there was a big rumour mill, because obviously we started asking people for GIS shapefiles and things like that. The development community is a lot like a high school, they all start talking to each other. So I think he had heard enough of it from people he was representing, not on these files ... And he reached out to me and ask if ... very pointed, if we were doing something. And I said ‘No, we are looking at stuff. But no decisions have been made.’ I think I was very clear, like, this is not something we are going forward with, but we are just, we are taking a look.”

[139] Both Mr. Amato and Mr. Van Loan told me that during this telephone call Mr. Van Loan volunteered to assist him by emailing him copies of municipal resolutions requesting that lands be removed from the Greenbelt. Mr. Van Loan's evidence under affirmation in this inquiry is that he was not then acting for any party related to the materials he emailed Mr. Amato. He told me he was aware of these resolutions because of his land planning work generally and because these resolutions were all from his home area of York Region.

[140] I have reviewed copies of these emails, which indicate that the conversation between Mr. Van Loan and Mr. Amato took place on or about October 6, 2022.

[141] When I interviewed Mr. Van Loan, he told me that the development community is "congenitally optimistic" and that there is always a "buzz" about whether the government would open up the Greenbelt to development. He confessed to me that, prior to speaking to Mr. Amato, he "got it totally wrong" about the government's change in policy on the Greenbelt. Because Minister Clark had been so vocal throughout the first term about protecting the Greenbelt and he had not been replaced as Minister of Municipal Affairs and Housing after the June 2022 election, Mr. Van Loan had been telling his clients that "it wouldn't happen." When Mr. Amato told him there had been no decision yet, he understood "it was in play."

[142] Below, in the section of this report detailing how Mr. Amato identified specific properties, additional evidence is reviewed with respect to communications between developers, consultants, lobbyists and others related to Mr. Amato's requests for information.

[The Ministry's Table of Properties and the Initial Criteria](#)

[143] The two senior planners took the list of criteria and information about the eight properties provided by Mr. Amato and created a document listing each property, its size, its location, any applicable planning policy (e.g. Greenbelt, Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan, Minister's Zoning Orders¹³, etc.), whether it was adjacent to an existing urban area, whether it was on the edge of the Greenbelt, and whether it was "Not in

¹³ A Minister's Zoning Order (MZO) is an order governing land use that the Minister of Municipal Affairs has jurisdiction to make as a regulation under the *Planning Act*.

Specialty Crop or Natural Heritage System.” The last column of the table contained a list of further information required or questions. This table was used at a briefing meeting with Mr. Amato on October 6, 2022 and then it was updated and used at subsequent briefings with him.

[144] The list of criteria provided by Mr. Amato to ministry officials on or about October 3, 2022 contains approximately 16 items broken into three categories. Under “Location,” it lists:

- adjacent to an existing (developed) urban area;
- on the edge of the existing Greenbelt Plan;
- lands are not in a specialty crop or part of a natural heritage system; and
- infill that would complete existing neighbourhoods and communities (nice to have).

Under “Infrastructure Services,” it lists:

- lands must have municipal and regional roads, sanitary trunk mains, regional trunk water mains, gas mains, and utilities (hydro, communications);
- area can connect to the larger regional infrastructure system;
- capacity exists (or can be made to exist) in systems to accommodate potential growth;
- transit infrastructure, i.e. stations, transit routes (existing and planned);
- schools nearby to accommodate growth; and
- police and fire protection services currently available.

Under “Benefits,” it lists:

- will help the government reach its goal of building 1.5 million new homes over the next ten years;
- provide attainable housing;
- provide opportunity for additional parkland; provide opportunities for employment, institutional uses, places of worship, etc.;

- retail and personal services nearby to accommodate initial growth; and
- near local and regional parkland spaces.

[145] Ministry staff were asked how the longer list of criteria provided by Mr. Amato was reduced to the three criteria found on the summary table prepared for the October 6, 2022 meeting, namely: (1) adjacent to existing urban area; (2) edge of the Greenbelt; and, (3) not in specialty crop or natural heritage system. Mr. Fraser explained that they discussed with Mr. Amato that it is one thing to have criteria and it is another thing to have criteria that can be measured. He said they needed to have data to use certain criteria and some of these criteria on the document provided by Mr. Amato did not proceed because “they weren’t things we had the information to track.” He explained that they discussed with Mr. Amato that “we would not have really good up to date intelligence on the nature of servicing and servicing capacity.” He also said that the various items on Mr. Amato’s list of criteria under “Infrastructure Services” were distilled into the concept of being adjacent to a settlement boundary of an urban area. Mr. Fraser said he and ministry staff also flagged for Mr. Amato that it would be fairly common to have natural heritage system on many lands and that prime agricultural land is common in the protected countryside areas, although specialty crop is less common.

[146] Mr. Fraser also explained that “after the first date, we didn’t really return to this document. We then sort of moved into a more operational discussion using specific sites to say, you know, here are the factors at each site for the consideration of the minister’s office. So we still had criteria, but we weren’t...we didn’t take this and turn it into a subsequent document...or, I guess we incorporated it into our subsequent document that included site-specific information.”

[147] The ministry official who created the ministry table, explained that “what we did at a staff level was sort of take these and do our best.” He said the information on the table was “our attempt to sort of boil this down into things we could reasonably deal with.” He noted they did not have information about infrastructure services, that municipalities know best where sewer and water are and they were not allowed to speak to municipalities. He said “there was no way we could publicly find this information in the time that we had. So, basically, the locational criteria you see at the top, those first four lines, ended up being summarized into the three high-level

criteria you see on the chart... And that was sort of the basic criteria we had from the minister's office to direct their ... my understanding, what was their consideration of the worthiness of the various sites. He said "at best, it was very high level and loose. They weren't hard criteria. For instance, they talked about, at the beginning in this list, lands that are not in specialty crop area or part of the natural heritage system. And pretty much every single parcel had some natural heritage system on it. So that became less a binary criteria... But we never really had an in-depth conversation about the application of this criteria..."

[148] This official also said "[a]t a staff level, we took our interpretation of what they were getting at, put them in the chart, and then we put back to them, time after time, by doing a virtual mapping tour, "here is where the sites are. Here is what they look like. Here is where the NHS [natural heritage system] is. Here is where the specialty crop is. Here is where a highway is." And that's sort of how it went. It was very tombstone information; the property is located here, it's this many acres. We weren't really going into deep land use planning analysis on the merits of it, because we didn't have detailed criteria to do so. And we didn't have time. We barely had enough time to clearly identify who was in and who was out and where the property was in order to make an ERO posting for November 4th."

[149] The ministry official responsible for preparing an initial draft of the ERO consultation posting advised that the criteria shifted over time, noting the differences between the criteria on the ministry table were different from the criteria in the first cabinet submission, which were different from the criteria posted on the ERO a few days after the cabinet meeting. This official told me "it was very hard to keep a handle on the consistency of the criteria because they weren't very ... what is the word I'm looking for? They weren't very evidence-based." This official explained that "if you applied those criteria to anything, you could have found hundreds of properties that would have qualified because, in my opinion or my knowledge, they weren't really meant to eliminate properties. They were more meant to justify the properties that had already been selected to be removed essentially. But the ask was to compare them against the initial properties, I guess the initial criteria, and see what was identified as issues or limitations. And so that is what the charts are from the meetings in October."

[150] With respect to servicing, Mr. Amato agreed that he was aware that ministry officials were unable to provide him with any information about “allocation,” because that information was in the hands of municipalities. Generally, the issue of allocation is whether the local municipality’s sewage treatment facilities have capacity to handle more residential development. Mr. Amato confirmed he did no work to assess whether allocation existed in any particular area. Mr. Amato said that with respect to servicing, he expected ministry officials to be able to advise whether the property being considered was “adjacent to existing pipes” and that he received that advice from ministry officials.

[151] The criteria documented or referenced in this project evolved. As further detailed below, it became understood that the presence of natural heritage systems and specialty crop designations were not deciding factors. Around the time that staff from the Premier’s Office were briefed, the concept of “use it or lose it” was introduced and a different criterion was discussed and later defined as “Site has been identified as having potential to yield housing, with potential ability to service in near term.”

The Selection of the Properties

[152] Over time, the number of sites on the ministry’s table for this project grew from the initial eight to 22.

[153] There is no dispute that Mr. Amato identified many of these properties. After carefully reviewing the evidence gathered in this inquiry, which is summarized in detail below, I find it is more likely than not that he brought to the Greenbelt team 14 of the 15 sites removed or redesignated and 20 of the 22 sites that were considered for removal or redesignation for development as part of this project in the fall of 2022.

[154] There was no dispute that ministry officials identified a property located in Markham owned by Minotar Holdings Inc. When they received direction that the government wanted to proceed with removing specific sites, ministry officials proposed the government consider including this 37-acre site, which had been the subject of litigation for several years and had been scheduled for trial.

[155] Ms. Manson-Smith suggested that it was possible some of her staff from another part of the ministry, working on a separate project of official plan approvals, had identified a small number of candidate sites through that work. However, other witnesses interviewed advised that Mr. Amato, who also had oversight of the official plan approval project, was instrumental in identifying which properties from the official plan work should be brought to the attention of the Greenbelt team.

[156] Mr. Amato agreed that he identified many, if not all, of the properties that were moved over from the ministry's Official Plans team to the Greenbelt team.

[157] There was some conflicting evidence about whether ministry staff took any steps to identify candidate properties from the pool of removal requests made during the 2015-2017 review of the Greenbelt boundary conducted by the prior government. On a meeting document for the second meeting of the Greenbelt team, which took place on October 13, 2022, under the agenda heading "Other Direction/Information Received," there is a note that says:

Opportunity to re-assess 700+ site specific requests received to date, specifically the short-listed properties if doable/straightforward/minor, to potentially add 2-3max new proposed removals to the existing approved sites above. Update: Based on a quick assessment, it appears that any shortlisted properties were very small in scope/size and would not yield or lead to any additional housing.

[158] I asked the Director of the Provincial Land Use Plan Branch, a senior planner and the planner on the Greenbelt team about this note. The planners recalled a discussion of this request amongst their team and they agreed they did not have time to do it within the very short timeframe available, noting the same document states "Proposal tracking for October 31 posting..." One of them also clearly expressed they did not want to be involved in "picking winners," explaining they were of the view that many properties would meet the broad criteria on the table and that removal from the Greenbelt would greatly increase the value of the land. The director said she recalled discussing with Mr. Fraser that given the direction to deliver the work by October 31 or early November, "there probably wouldn't be a lot of time to find a whole extra set of lists of 700-plus requests" and that "my recollection is that it was more time restrictions to do a comprehensive look at this." She said her team's work was "really focused on

doing the work to deliver the mapping and the consultation.” These three ministry witnesses each advised they did not make this note and do not know who made it.

[159] Mr. Amato’s evidence on this point is covered in detail in the next section, but in summary he did not suggest that ministry staff brought any properties to his attention as a result of any review of the 2015-2017 removal requests.

[160] When asked how properties were selected and added to the list on the ministry’s table, all the ministry officials interviewed said they did not know and that I should ask Mr. Amato.

[161] Mr. Fraser said he did not ask Mr. Amato how he selected the properties. Mr. Fraser told me “he didn’t say anything about that and we didn’t ask, a fairly common process in interfacing with the minister’s office on topics.” My counsel asked him to explain, at a basic level, “what you ask and don’t ask.” Mr. Fraser responded, “So, we often will get what we call a direction. He might use the phrase ‘I have received direction for this particular property. Could you please run it against the criteria?’ And, in some cases, it would have been passed to me through the deputy’s office, and I would just know that the deputy’s EA would say, you know, ‘Ryan dropped this [USB or document] off. It has got a new site for you to consider. Can you run it against the criteria and talk about it at our next meeting?’” Asked if his inference was that Mr. Amato received direction from Minister Clark, Mr. Fraser said no: “I generally wouldn’t infer that. In my experience, political staff work with political staff. They may be ultimately responsible to the minister, but granularity like this is something that typically is dealt with at a staff level.” He indicated this direction may come from the Premier’s Office in general.

[162] When pressed to say if she had any belief about how Mr. Amato selected properties for this project, Ms. Manson-Smith said she believed the selection “was done in some capacity with the Premier’s Office.” When asked for the basis of this belief, she said “I cannot recall specifics but I can recall reference to ... you know, the conversations with the Premier’s Office were ongoing, and that is where our direction comes from.”

[163] Asked if ministry officials gave him any advice about what process to use to select the lands for this project, Mr. Amato said “[n]o. There was never any suggestion because this was viewed as a starting point to a larger policy.”

[164] Typed notes taken by a ministry official at the October 21, 2022 meeting with Mr. Amato state “[name of senior planner] – also bringing to attention that 3 sites are included that weren’t on any list” and “Ryan – 3 additional files were given straight from premier.” I confirmed with the note taker that this official made these notes at the time and that these are words that this official believed were said by the speakers at the time. The official acknowledged it was possible that Mr. Amato mentioned the “Premier’s Office” but explained that if he had, the official would have written “PO” which is the short form used for the Premier’s Office. As set out above, “PO” is not used in that particular note.

[165] Another ministry official advised they recalled being told files had been given straight from the Premier, but they did not recall which ones.

[166] The typed notes and the meeting document indicate the three new items were Block 41 in Vaughan, Sulphur Springs Road in Hamilton, and Flato-Wyview properties in Nobleton.

[167] When asked about this note about files being given straight from the Premier, Mr. Amato said “That is not true, the Premier never gave me any of those files.”

[168] I asked Premier Ford to respond to this evidence suggesting he had put forward these three properties. He denied directing Minister Clark or any staff to remove or include any specific property in the Greenbelt and advised he “is not in any way familiar with” the three sites referenced in that note.

[169] Members of the premier’s staff also told us they were not involved in the selection of properties. Mr. Sackville said he did not discuss specific properties to be removed or removal criteria with Mr. Amato until the briefing that occurred on October 27, 2022. Mr. Truesdell advised he did not consult on any properties or criteria and that he understood they had already been selected by the time he was briefed, which was likely only a few days earlier than October

27, 2022. Mr. Sidnell said he did not recall receiving any updates with respect to this project before he left the Premier's Office for other employment in the last week of October. The Premier's Chief of Staff Mr. Wallace also said he did not hear anything about this project until shortly before it went to cabinet, by which time the properties had been identified.

[170] Based on the contemporaneous notes and evidence of the ministry officials whom I interviewed I find it more likely than not that Mr. Amato did say that the properties were given from the premier or the Premier's Office but, for reasons set out in the Analysis section below, his motive for dropping the name of the premier or the office was probably done to lend authority to his direction to the ministry public servants and not based in reality.

[171] Ms. Jensen told us she did not in any way help Mr. Amato identify lands for this project. She said she had a belief that some properties had been identified through the official plans project but said she didn't know how lands were selected for the Greenbelt project. As indicated in the evidence below, she also passed along a relevant package to Mr. Amato but said she was unaware of the contents.

[172] I note there has been no evidence received from any witness or in any document to suggest Minister Clark personally played a role in the selection of the properties.

[173] With the exception of the Minotar property, which all agree was identified by ministry officials, the evidence gathered about how each property came to the attention of Mr. Amato is set out below in the section "Details of how specific properties were selected".

Evidence Regarding Discussions with Mr. Amato that More Properties Would Meet the Criteria

[174] Ministry officials were clear that they advised Mr. Amato that there were many more properties in the Greenbelt that would meet the criteria used in this project.

[175] As set out above, Ms. Manson-Smith said this was discussed at every conversation with Mr. Amato in August and September.

[176] When asked how many Greenbelt properties would meet the criteria of being adjacent to existing settlement, on the edge of the Greenbelt boundary, and have the potential to yield housing in the near term, Mr. Fraser told me “We don’t know, but we would assume it is a significantly higher number than the number that we were put forward to consult on. And that was shared with the minister’s office, that there would be others who own properties who would say, “I think this criteria fits the description of my property.” And the thinking at the time was, and they will have an opportunity to respond and submit their information and, if the government chooses to amend the Greenbelt again, that is something that they can entertain with that information they receive. What we were clear on was that we would not have enough time in the timeline to give just what you are asking, how many properties might meet these criteria.”

[177] When asked if he received this advice, that there were many more properties that might meet the criteria used for this project, Mr. Amato initially responded “If they had actually advised me that, I would have asked them to bring them forward.” When asked if he was saying that ministry officials did not give him that advice, he said: “I am saying the properties that they wanted to deal with, they advanced in the Minotar lands, and we removed it.” When asked if he was told by ministry officials that they did not have time to do a comprehensive review, in the timeframe available for the project, of how many properties might meet the criteria, Mr. Amato responded: “Don’t you find it odd that they didn’t have time for a comprehensive review but they were confident enough to say there was other properties?” Mr. Amato was then reminded of the evidence that ministry officials had advised that there had been 700 site-specific removal requests during the 2015-2017 Greenbelt Plan review process. He then stated that “the point I am trying to make is that if they are so confident that they brought up the other properties, we advanced the one they brought. Where were they? How were they so ready on that one but not the other ones?” Mr. Amato was again presented with the ministry’s evidence that they said they did not have time to assess the past requests in the timeframe available for the project. He interrupted to say “They had time to do Minotar.” When it was suggested to him that Minotar was unique, in that it was the subject of litigation for several years and already scheduled to go to trial, Mr. Amato stated “I just, I take issue with what they are saying there.” He explained, “I

take issue with the fact that there was a briefing that they said they could advance more properties but they didn't have time to, yet they had time for me, and us and the government to solve litigation issues for them on the Minotar site, that they mapped very quickly, so I just, I don't find consistency in what they are saying."

[178] I find that Mr. Amato failed to appreciate the position ministry officials were in. They were unable to review the hundreds of requests for removals that had been part of the 2015-2017 review and subsequently to identify which properties might meet the same criteria being applied to the properties Mr. Amato was providing to them given the extremely tight timelines imposed on them by Mr. Amato. The Minotar property was entirely unique since the ministry had been very familiar with that property for years and were engaged in litigation over it which was about to go to trial. I also understand the reluctance of ministry officials to "pick winners and losers" in a selection process that was not open to the public.

[179] When asked if he believed that there are many more properties in the Greenbelt that would meet these criteria, Mr. Amato agreed, stating: "Yes, and I believe the government put out a public call to that. We received 150 additional sites [through the November 4, 2022 ERO consultation on the Greenbelt removals] that the public service has been sitting on, and we were waiting to do a second step. So we did a call to action on that. This was about starting a conversation."

[180] Mr. Amato was asked to identify any communications materials confirming this public call for Greenbelt removal requests. He responded on June 14, 2023, that he has been unable to locate a copy of such form of information containing such a statement but that he would continue to look. As of the release of this report, he has not provided any document confirming a public call for removal requests.

Meetings Between Ministry Officials and the Minister's Office

[181] Ministry officials met frequently with Mr. Amato in the fall of 2022 to move this project forward.

[182] Mr. Fraser consulted his calendar and provided me with a list of meetings and attendees, from August 30 through to December 14, 2022. It indicates that from September 21, 2022, to November 4, 2022, when the lands were posted for consultation on the ERO registry, ministry officials had 14 scheduled meetings with Mr. Amato. This does not include the additional minister's briefing and Premier's Office briefings that ministry officials also attended with Mr. Amato.

[183] Two ministry officials who attended these meetings made typed notes. Both note takers were interviewed during this inquiry. Both confirmed they made the notes during the meetings to assist them with their work and confirmed that specific notes were a record of what they heard was said at the meeting. A third ministry official made handwritten notes at the meetings, but advised that their notes also included their thoughts and analysis that were not discussed at the meetings, so these notes have not been specifically referenced in this report, although the witness used them to refresh their memory as to what occurred at the time.

[184] Starting on October 19, 2022, the minister's deputy chief of staff Ms. Jensen was brought into these meetings. She told us she was invited but did not necessarily attend all meetings after this date. A ministry official told me it was understood she was attending in an observer capacity.

[185] About a week after Ms. Jensen began attending the Greenbelt meetings, on October 26, 2022, other members of the minister's staff also began to join from time to time, including the minister's director of issues management and director of communications.

[186] All witnesses to these meetings agreed that it was identified at the first meeting on October 6, 2022, that legal descriptions and GIS mapping or shapefiles¹⁴ were needed to assist with the mapping exercise required to remove properties from the Greenbelt. Mr. Amato confirmed he communicated with proponent landowners or their representatives to obtain this information and he then provided it to ministry officials, frequently on USB keys. He later clarified that he did not obtain shapefiles for all properties considered and says that he only reached out

¹⁴ GIS stands for geographic information system. Briefly, for the purposes of this inquiry, I understand that a shapefile is a form of electronic data that stores information about the shapes of various geographical features. Once a shapefile is created, it can be viewed in a GIS.

to request shapefiles when requested to do so by the Greenbelt team. In one instance, after she was briefed on the project, Ms. Jensen advised she communicated with the representative of landowners to obtain shapefiles, as detailed below. All evidence was consistent that minister's staff were responsible for this communication with proponents, not ministry officials.

[187] Asked about the first meeting on October 6, 2022, Mr. Fraser explained the general approach and outcome of the meetings as follows: "This meeting? At a general level, it would have been to, for the first time, show Ryan the format of information sharing and give him a feel geographically for the space and the relationship so he can begin to get a feel for if this is the criteria we are discussing, here is what it looks like in this instance. And ultimately, to get confirmation of whether it is Cherrywood or Nash Road or Leslie-Elgin, 'Do you have enough information?' 'What other information do you need?' and 'Is this a property you wish us to continue to consider?' So that this became, really, the working table meeting for bringing properties in and, where it happened, bringing properties out from the discussion ... and getting more information. So it was, sort of, used to draw action items for the next meeting. Like, 'we need to get mapping for this new property,' or 'we need to find out about the nature of specialty crop,' or whatever the other question is that would have arisen during the discussion of each property."

"Not in Specialty Crop or Natural Heritage System" Dropped as Criterion

[188] One of the changes that took place over the course of the month of meetings was that "Not in Specialty Crop or Natural Heritage System" ceased to be considered as criteria for decision-making. As set out above, they were initially listed as criteria on the October 6, 2022, version of the ministry's table, which documents that all of the nine properties on the list at that time¹⁵ contained specialty crop land or natural heritage systems or, in the Gormley property's case, are entirely located within the boundary of the Oak Ridges Moraine Conservation Plan (ORMCP).

¹⁵ The eight initially identified by Mr. Amato and the Minotar property identified by ministry officials.

[189] The table prepared by ministry staff for the second meeting with Mr. Amato about the properties, held on October 13, 2022, has a column titled “MO Direction Received October 6.” It records that they received direction on October 6, 2022 to proceed with the proposed removal for seven of the eight properties initially provided to them by Mr. Amato. The exception was the Gormley property, which was identified as not being on the edge of the Greenbelt and was within the Oak Ridges Moraine and for which the “MO Direction Received on October 6” was recorded as “MO to confirm if this proposed removal is still required.”

[190] The MO Direction column on the October 13, 2022 table also contains specific notes about more sensitive environmental features. For example, the MO direction entry for Cherrywood specifically states, “Proceed with proposed removal. Entirety of lands to be removed including any NHS.” The direction entry for Orca states “Proceed with proposed removal. Clarified that lands within the ORMCP are not to be removed, only lands within Greenbelt NHS to be removed.” Similarly, the entry for the King Township property states “Proceed with proposed removal. Clarified that lands within ORMCP Natural Core designation to remain, all other lands to be removed (ORMCP Countryside, GB Protected Countryside and NHS).”

[191] Ministry staff explained that after the initial meeting on October 6, 2022, where direction was received to proceed with mapping for posting properties, even though they contained natural heritage system features or the specialty crop designation, they understood the presence of these environmental features were not deciding criteria. One of the planners told us they understood that it was not a criterion but “something to be aware of.” The Director of the Planning and Growth Division explained that “it was a criteria on the original list of criteria provided by Ryan, but it was evident early on that most of the properties would have had natural heritage system lands on it so in a way, that criteria fell off” and that the presence of natural heritage systems or specialty crop designations “weren’t criteria or considerations ultimately of whether properties were removed.” When asked who decided whether it was a criteria for consideration, she said “Ryan.”

[192] Ms. Manson-Smith confirmed that “natural heritage system” was not part of the final criteria by the time cabinet approval was sought. By that time, in early November 2022, the

criteria had been formulated as: (1) adjacent to existing settlement area; (2) adjacent to the edge of the Greenbelt and (3) “site has been identified as having the potential to yield housing with the potential to service in the near term.” Ms. Manson-Smith said she did not recall the specifics of how those criteria were established, but told me “they were the criteria that were most important to the government from the government’s perspective.” Asked if agricultural land and natural heritage features were not as important to the government, she said “I think that would be a question best put to elected officials or Minister Clark’s staff.”

[193] Mr. Amato had a number of responses to the question of why this criterion was dropped. He said the areas designated as “specialty crop” were not being used for specialty crops but had been converted to uses including a gravel parking lot. He said that he believed that it was too complicated for officials to try to map removals around the natural heritage systems. He also understood that there were “policies already set in place to protect the natural heritage system from development. It is not just the Greenbelt program.” Asked to explain what these policies or protections might be, he said you can’t build on a river or wetlands.

Advice and Direction Where Properties Not Adjacent to the Edge of the Greenbelt

[194] The various iterations of the ministry’s table ultimately identified that four of the 22 properties considered were not on the edge of the Greenbelt. These were the Gormley, Mount Albert, Penta – Binbrook, and Rizmi properties. By October 26, 2022, for each of these properties ministry staff have noted on the table in the final column, under the heading “Decision points required,” “None – MO DIRECTION – do not proceed...” For most of these properties, there were additional notes that it “may be dealt with through [municipal comprehensive review]” or “will be dealt with through OP.”

[195] On the table created for their November 1, 2022 meeting with Mr. Amato, ministry staff mentioned the Tribute property for the first time, which was apparently brought forward for consideration on or about October 31, 2022. Like the four properties mentioned above, it also was noted as not being adjacent to an existing urban area. Ministry recorded on the table: “MO DIRECTION: do not proceed” for this property.

Advice and Direction Where Properties Subject to Other Barriers to Development

[196] The various iterations of the ministry table also indicate that officials advised Mr. Amato that a number of properties he had identified were subject to other barriers to development, in addition to being located within the Greenbelt boundary. For example, the Penta - Burlington property was noted on the table as being largely within the Niagara Escarpment, which is subject to a separate legislative scheme and outside the minister's control. Similarly, the Rizmi property in Vaughan was noted to be designated as Natural Core Area and Natural Linkage Area under the *Oak Ridges Moraine Conservation Act*, and that legislative change would be required to permit its development. Again, on its table created for a November 1, 2022 meeting with Mr. Amato, the ministry recorded "MO DIRECTION: do not proceed" for both these properties.

[197] When asked if ministry officials ever recommended to Mr. Amato against proceeding with the removal of any properties on the list proposed for removal, Mr. Fraser gave the Gormley and Penta – Burlington properties as examples. He said they told Mr. Amato that "based on your outcome you are trying to achieve, the tools we have, the timeline," there were "significant complications that might not necessarily be addressed using this process." Mr. Fraser also said they had also initially identified that Cherrywood was subject to the *Duffins Rouge Agricultural Preserve Act*, which is under the purview of the Minister of Natural Resources and Forestry. Mr. Fraser advised that in the case of this property, Mr. Amato spoke to his counterpart on that minister's staff, and then later "I was given direction to make connections to the officials in MNRF to dial them into our discussion" and to explain that "if this is going to happen, your ministry would need to repeal this act..." and that in time, those other officials "operationalized that."

Emergence of "Use it or Lose it," Goal of 50,000 Homes, and Affordable or Attainable Housing

[198] According to Mr. Fraser, "in the early days of the project we weren't talking about, you know 'When will the projects break ground?' It was more just the viability in general." He said that they "started talking about timing towards the very end of the process, like the last week or so." His evidence in this regard is corroborated by the tables prepared for meetings with Mr. Amato that reference other criteria but not how quickly homes can be built.

[199] A review of the typed meeting notes indicates that the issue of timing for building homes first was discussed at the October 21, 2022 meeting between Mr. Amato and the ministry officials. The issue of the number of homes to be built and affordable and attainable housing was also raised. As detailed below, this occurs around the time that Mr. Amato began to brief staff in the Premier's Office.

[200] The typed notes of one ministry official for the October 21, 2022 meeting with Mr. Amato state:

[ADM Fraser] – turning it to Ryan to talk about use it or lose it – what are our options/opportunities

Ryan – convo w/PO/Minister – we want to make sure we can stand up and defend that it's serviced, will agree that it's private servicing!!! Wants to say that they can build immediately. In convo w/PO – ryan is in process of using [single family homes] as target – what is minimum amount of homes we'll get from this – to use in messaging – 25k at Cherrywood

Other stuff for ministry to think about: 10% minimum affordable/attainable – path to doing it at Cherrywood. Ryan: “developer is getting unfrozen 3\$billion asset”

Ryan – Want to be able to say in a couple of years that the projects have started – if you haven't advanced project and no real reason for delay we are going to talk about putting it back in the GB. All language is going to be around crisis and shovels in the ground.

[201] Another part of these notes references a discussion about avoiding creating 'holes in the doughnut'. If lands that are not adjacent to the edge of the Greenbelt boundary were removed, they would create holes in the Greenbelt. The notes indicate that the deputy minister was of the view that requiring that removals not create a 'hole in the doughnut' would reduce the number of requests for removal. However, these notes indicate Mr. Amato said something to the effect of “depends on Gormley, we don't know.” The other set of typed notes, taken by another official at this meeting, also indicate that there was a discussion about whether this would be a criteria or not, stating “...If not hole in donut (and no Gormley) can add that as criteria – can put in ERO.”

[202] One of the sets of typed notes for this October 21, 2022 meeting also records a question from one public servant about whether the idea is to consult on 14 properties and then later

open the process up to other landowners or if the goal “at this time” was to look for properties that meet the criteria. The notes indicate that Mr. Amato said the messaging would be that “they [other landowners] came to us with a solution if you feel like we missed you.”

[203] With respect to how an estimate of the number of homes to be built was reached, Mr. Amato told me that he “verified with the developers, that they could, if they were only single family homes, which they’re not, what would be the bare minimum that they could do.” He said he did not email any developers for this information, but believes he spoke verbally to each developer who had land removed from the Greenbelt in 2022. He told me he recalls totalling the estimates on a calculator. He has no notes of any of these calls or contacts.

Evidence on Whether MO Direction Received or Not

[204] When asked who decided whether particular properties would make the list to be presented to Minister Clark, Mr. Amato responded “[t]he ministry provided recommendations, as you can see in the “General MO criteria met”, based on the criteria we came up with together and decisions were made to provide recommendations based on this criteria.” He recalled ministry officials “being adverse” on “anything in the Niagara Escarpment” and the Rizmi property. He said they gave him “good advice” on the Gormley site that he took, and “the same with Mount Albert (Geranium) that wasn’t proceeded on.” He said that with respect to the properties that proceeded to removal or redesignation, the role of ministry officials was assessing “agreed upon criteria and letting us know if we fit the criteria and they were supportive.”

[205] By October 19, 2022, the ministry’s table had been modified so that there are only three columns, one to identify the property, one to state whether “General MO Criteria Met” and one for “Decision Points Required.” As an example, under the last column, for the Orca property, it states:

Confirm exact extent of lands to be removed from the Greenbelt Plan:

***Remove entire Greenbelt Plan NHS ‘finger,’ severing connection to the Oak Ridges Moraine Plan**

***Alternatively, confirm extent of lands (with maps/shapefiles provided by proponent) to be sculpted out of the Greenbelt finger while still maintaining a continuous corridor (see Leslie Elgin site map for example)**

[206] On the October 21, 2022 table, under that last column “Decision Points Required” ministry staff have recorded various instructions, for example for the Orca property it records “MO Direction: proceed, shapefile of refined extent of the lands to be removed received.”

[207] On that October 21, 2022, table there are 13 notations of “MO Direction” received, with details recorded. There are five notations of “MO Confirmation needed” with details of what confirmation was being sought from the minister’s office.

[208] In addition to these notations on the ministry’s table, there is additional contemporaneous documentation of direction in the two sets of typed notes prepared by the two different ministry officials. Of note, one of them was saved under the file name “MO direction – Notes from meetings.”

[Evidence with Respect to Mr. Amato Consulting or Not Consulting the Premier’s Office about the Greenbelt Project](#)

[209] Mr. Amato told me that he began briefing the Premier’s Office about the Greenbelt project about two weeks before it was announced, on October 17, 2022 and shortly thereafter. Most contemporaneous documentation corroborates his evidence with respect to this timeframe.

[210] We heard from several witnesses that the chief of staff to the Minister of Municipal Affairs and Housing usually communicates about policy with the Director of Housing Policy in the Premier’s Office, who was Mr. Truesdell at the relevant time.

[211] Mr. Amato and Mr. Truesdell both told me that throughout the fall of 2022, they were in frequent contact about Bill 23 but not the Greenbelt removals project. Mr. Truesdell said he was in almost daily contact with Mr. Amato leading up to the announcement of this legislation, sometimes speaking with him multiple times a day. However, they did not discuss the Greenbelt until mid- to late October.

[212] Mr. Amato and Mr. Truesdell agreed that Mr. Truesdell first learned about Mr. Amato's work on the Greenbelt item from the mandate letter at a meeting with other senior staff from the Premier's Office on October 17, 2022. According to Mr. Amato, this meeting was not about the Greenbelt but they started discussing it when he was not ready to brief them. At that meeting, Mr. Amato disclosed to Mr. Truesdell and the others that he was planning to bring forward the Greenbelt removals item around the same time when Bill 23 was planned to be introduced, on October 25, 2022, and it was discussed whether the Greenbelt initiative was ready to go forward or not.

[213] Asked to describe what happened at the meeting, Mr. Amato said "I think this was a meeting where [Mr. Truesdell] was talking like he knew what was going on when he didn't ... and it was just a bit of train wreck of a meeting." He further explained "I think there was a working theory at the time that I was trying to push forward a Greenbelt proposal that no one was aware about, which wasn't the truth, and when they went and asked their housing advisor who knew nothing about it, it created a bit of a problem."

[214] Mr. Amato sent text messages to Ms. Jensen about this meeting on October 17, 2022 which confirm the date it took place, and that Mr. Amato understood these staff from the Premier's Office were surprised to hear the plans with respect to the Greenbelt removals. Among other things, his text messages say "And yes they tired [sic] saying I did nothing with it. And we'd have to delay by a year. Because they asked jae and not par. Pat. And not one could get ahold of pat to verify anything." Another one of his messages states, "And yeah that there was no policy and I just didn't advance it. So everyone was assuming we were rushing because I got caught or some shit." In response to a question from Ms. Jensen "But like this whole time jae knew nothing about Greenbelt?," Mr. Amato responded: "Yeah I was told to leave him in the dark."

[215] Asked what the line "that there was no policy" meant in the text messages, Mr. Amato advised, "because [Mr. Truesdell] wasn't aware of what we were doing, he wouldn't have known there was a criteria guideline, things like that. So it was just like we were throwing 15 properties or 20 properties at the wall or whatever."

[216] Asked if he was told by anyone to leave Mr. Truesdell in the dark, Mr. Amato said “No, I made that decision on my own.” Asked a second time about his message, that it specifically says he was told to leave him in the dark, Mr. Amato said “I think I was just fuming and I was not paying attention to what I was saying. I can confidently say that the decision to keep the [non-disclosure agreements] and keep the tent small was because I did not trust Jae with the project, and that was a decision I made unilaterally.”

[217] Mr. Sackville, then principal secretary to the Premier, said he did not recall any discussions with Mr. Amato about keeping Mr. Truesdell in the dark. When he was told that Mr. Amato said that he, Mr. Sackville, was the decision maker in the Premier’s Office for this project, not Mr. Truesdell or anyone else in the Premier’s Office, Mr. Sackville said that was not consistent with his understanding.

[218] Asked about his recollection of the October 17, 2022 meeting, Mr. Truesdell advised that he did not believe at that time that Mr. Amato and the ministry officials would be ready to move forward with the Greenbelt item in the mandate letter at the same time as Bill 23, which was to be released about a week later, in late October. He said he had told other senior staff in the Premier’s Office “many times” that this item would not be ready at the same time as Bill 23. Then, he heard from Mr. Amato at this meeting that “we are ready and we have not told you.” Up until this meeting, Mr. Truesdell said he expected the Greenbelt item in the mandate letter would be addressed later in the term, in 2023 or 2024.

[219] On the evening of October 17, 2022, Mr. Amato emailed Mr. Sackville, Mr. Truesdell and the Deputy Chiefs of Staff to the Premier and asked for time to review a project he has been working on. Mr. Sackville responded to all the same evening, stating this is timely and critical and suggested a date a few days later.

[220] It is unclear precisely when that next meeting with Premier’s Office staff was held, but Mr. Amato said it was shortly thereafter that he started briefing them about the project details. After October 17, 2022, the typed meeting notes taken by ministry staff at their meetings with Mr. Amato also begin to contain multiple references to him consulting with the Premier’s Office.

[221] For example, on October 19, 2022, there is a note “Ryan – meeting with PO at 330” and on October 21, 2022, with respect to the areas of land to be added to the Greenbelt in the Paris Galt Moraine area, there is a note “Ryan – presented options to PO....” Mr. Truesdell confirmed he generally recalled discussions about how much land should be added to the Greenbelt in the Paris Galt Moraine to replace the areas to be removed.

[222] As set out in paragraph 200, the October 21, 2022 typed notes of one ministry official also reference Mr. Amato speaking with representatives of the Premier’s Office.

[223] The other set of typed notes made by another ministry official at this October 21, 2022 meeting contain no specific references to the Premier’s Office but one reference to “discussing with P,” which is reviewed in detail in the section dealing with evidence regarding the premier at below. However, this second set of typed notes for this meeting records essentially the same substantive discussion detailed above, referencing “use it or lose it,” being able to defend that lands are serviceable, the minimum amount of homes using single family as density approach, being 10 percent affordable/attainable, and ministry “to think about how we would prescribe.” This public servant also specifically recorded:

Ryan – for Monday – needs a timeline – posting next steps to make it official – in a crisis – prove that we are managing 14 sites in a responsible way

[ADM Fraser] – all we know is whether it is adjacent to settlement areas

[224] By way of written follow up, Mr. Amato was provided a copy of these typed notes for this meeting and asked if he recalled making such a statement or receiving such a response from Mr. Fraser. Through his counsel, Mr. Amato submitted that the notes are not a transcript and no statement is attributed to Mr. Amato and that he does not recall speaking the words set out or the response attributed to Mr. Fraser.

[225] Mr. Sackville recalled being first briefed about the Greenbelt project at a meeting facilitated by the Cabinet Office on October 27, 2022. He told me that he recalled the intentions of the policy were discussed and that it should be “programmatically,” meaning that it should be something that could be repeated and made standard. He said there was a view he held, which

was shared by others at the briefing, that the policy needed to materially contribute to resolving Ontario's housing crisis and to do so in a timely fashion. He said the criteria was scoped to address that, such as the requirements for expedited servicing and adjacency to servicing and capability to build homes quickly. He told me he understood that integrity of the intention for the Greenbelt would be preserved by the criterion of "no holes in the doughnut" and that there would be conservation of sensitive ecological lands.

[226] Mr. Amato said that his earlier conversations with Mr. Sackville, prior to late October, did not include details but were "just, 'we are moving and we are going to be ready for a conversation.' There was nothing about program, there was nothing about site-specific properties or anything like that."

[Evidence with Respect to Mr. Amato Consulting or Not Consulting the Premier about the Greenbelt Project](#)

[227] Mr. Amato told me he did not communicate with Premier Ford about the Greenbelt project as he was developing it with ministry staff. He said the premier did not bring properties to his attention or otherwise give him direction, with the exception of the general direction that Mr. Amato recalls taking away from the September 15, 2022 meeting with Minister Clark, Mr. Sackville and Premier Ford, that they were serious about the Greenbelt item in the mandate letter.

[228] Premier Ford told me he was not involved in any way, directly or indirectly, with site selection and that he viewed the cabinet submission on the proposed site selection for the first time on the morning of November 2, 2022, shortly before cabinet met to discuss it. He says he had no prior knowledge whatsoever in the specific proposed site selection nor was he spoken to by anyone about site selection.

[229] Premier Ford's chief of staff Jamie Wallace told me that he knew Premier Ford had not been involved in selecting properties because, at this briefing on November 2, 2022, the premier was very interested to see the list of properties selected.

[230] Premier Ford's Principal Secretary Mr. Sackville also recalled being at the premier's briefing with Mr. Wallace. He generally recalled Premier Ford being frustrated at being briefed on this proposal a short time before cabinet was scheduled to discuss it. Like Mr. Wallace, Mr. Sackville recalled Premier Ford being very interested in learning the locations of the properties proposed for removal. Mr. Sackville said that ownership of the properties was not discussed at the premier's briefing, but that with respect to locations of the properties, Premier Ford was interested in details such as proximity to transit and what that would mean for options for affordable housing. He said Premier Ford also had many questions at the briefing about the numbers of homes to be built and the speed at which they could be built. Mr. Sackville recalls telling the premier that they had advice from public servants and the people who selected the properties that they are aligned with the criteria for speedy servicing.

[231] There are a couple of typed notes made by ministry officials that reference the premier or "P," which I am advised is their usual shortform for premier.

[232] In their notes for the October 13, 2022, meeting with Mr. Amato, one of the note takers recorded "Clarity on Gormley – Ryan – decision on [York Region] areas is with PO [right now] – believes there's a few properties around GO station they want to develop out – premier doesn't understand it's in the [Oak Ridges Moraine] – was hoping to discuss today but it's gonna be Monday – need clarity on [Oak Ridges Moraine]." There are no notes available from the other note taker for this date.

[233] Asked about this note and whether he said something along these lines referencing Premier Ford, Mr. Amato said he did not recall but also that he would not have referenced the premier "because we didn't have conversations with him that early." He also said "I would never say the premier doesn't understand something to public servants."

[234] Mr. Amato said he had discussions with Mr. Sackville about the Gormley site during the first couple of weeks of October because the ministry had also received several submissions and a request from York Region to permit development in this area through the official plans process. Asked to confirm if the decision with respect to Gormley was with the Premier's Office at the

time, Mr. Amato said “no, we were just talking about it. I wasn’t waiting for direction, I was dealing with it through my officials and, as I said, we tried to solve everything through the official plans process where we could.”

[235] Mr. Sackville advised that prior to the October 27, 2022 Greenbelt briefing described above, he has no independent recollection of speaking with Mr. Amato about the selection of any property to be removed from the Greenbelt or about the Gormley GO Station area in particular. However, he also noted that “for years and years, Gormley has been viewed as a missed opportunity for transit-oriented housing. It’s the idea there is a public benefit being foregone at the site and it is a subject of discussion on and off if something should be done.” He said it would be extremely unlikely for Mr. Amato to have this type of discussion with Premier Ford and that maybe Mr. Truesdell would be someone with whom Mr. Amato would consult.

[236] Premier Ford advised me that he recalls no discussions about the Gormley GO station area prior to November 4, 2022.

Evidence Relating to Minister Clark’s Involvement or Lack of Involvement in the Greenbelt Removals Project

[237] When asked how, from his perspective, the Greenbelt item moved forward from the mandate letter, Minister Clark told me “I received a briefing from the professional non-partisan staff on October 26, 2022 and I presented it to cabinet on November 2, the recommendation which they accepted.” He says he left this policy initiative to his chief of staff and ministry officials to develop and did not know any details until shortly before it went to cabinet.

[238] Ms. Manson-Smith said that during the fall of 2022 she provided the minister with a “high level update that the work was underway, that we were working with his chief of staff, and the timelines we were working on.” She said, “we did not do a specific conversation with him, that I can recall, until whenever it would have been, in late October, early November before cabinet.”

[239] Mr. Amato told me he did not discuss with Minister Clark the advice he received from ministry officials at the August and September briefings. He told me he briefed Minister Clark on

October 26, 2022. He said he did not have earlier conversations with the minister about specific properties “or anything to do with this.”

[240] Minister Clark was asked about the reference to him in Mr. Amato’s September 9, 2022 text exchange with Ms. Manson-Smith’s executive assistant that Mr. Amato was having his last meeting with a special project stakeholder tomorrow, that he would sketch out what he thought the path forward should be and talk to “M,” which I understand to mean minister. Minister Clark said he recalled no conversation with Mr. Amato about any sites or the Greenbelt project around that time or any time before October 26, 2022.

[241] There are very few references to Minister Clark in the typed meeting notes made by ministry officials.

[242] An early reference is from the notes of the October 13, 2022 meeting with Mr. Amato. Only one of the note takers attended this meeting. In their notes of the discussion about adding land in the Paris Galt Moraine area, this official noted “Ryan – Ministers [sic] preference is 18000 acres.” Mr. Amato explained he was aware that in the previous term Minister Clark had taken the position that for lands subject to a minister’s zoning order, there would be a 2:1 offset of protected lands and that as a starting point he was using this ratio of two acres to be added to the Greenbelt for every one acre removed. I note that Mr. Amato’s evidence in this regard is corroborated by a June 16, 2021 news release in which Minister Clark is quoted as saying “I am also proud to commit to adding two acres of protected and enhanced greenspace for every acre of land developed through the use of an MZO. We are balancing responsible growth with protecting the environment for future generations.”¹⁶ Mr. Amato told me that he presented options for additions to the Greenbelt from the Paris Galt Moraine to the Premier’s Office and it was that staff who decided that the policy proposal would be to add 9,400 acres to the Greenbelt in the Paris Galt Moraine area and in Urban River Valleys, to compensate for the removal or

¹⁶ Ontario Newsroom News Release “Ontario is Enhancing the Greenbelt in York Region by Adding Conservation Lands,” Government of Ontario (June 16, 2021), online: <https://news.ontario.ca/en/release/1000351/ontario-is-enhancing-the-greenbelt-in-york-region-by-adding-conservation-lands>

redesignation of 7,400 acres. Mr. Amato told me he could not recall which members of the staff of the Premier's Office were responsible for this decision.

[243] There is also a typed note made by a ministry official at the October 21, 2022 meeting with Mr. Amato, set out at length above, starting at paragraph 199. The only section of that note that references Minister Clark references a concern about servicing and the ability to build immediately. On the same date, later in the day, the other ministry note taker made notes of a different meeting, where the chief of staff is not present, under the heading "Oct 21 – DM Direction." One of these notes also references the minister: "Debrief from DM (convo with CofS/Minister) – briefing with M on wed; still working to 28; need to finalize the list in scope; will raise issues re: use it/lose it; on M's mind, servicing for each property, quickly serviced."

[244] Minister Clark was asked about both of these notes. He confirmed that he has no recollection of any briefing about this project prior to the briefing on October 26, 2022.

[245] With respect to the actual briefing on October 26, 2022, Minister Clark recalled the public servants "went through the criteria of how the sites were selected" and then "we went through the actual sites that were being proposed for consideration."

[246] Consistent with what I heard from other witnesses who attended this briefing, including that Minister Clark did not appear "keen to be doing this project," Minister Clark acknowledged that he was "not in a very happy mood." He explained "given the fact I was making the decision which was counter to some of the decisions I had made in the first term. And so it's a tough decision." He also told me "I have a mandate letter and I implemented the measures that were in the mandate letter. This was one of them."

[247] All witnesses agreed that Minister Clark gave direction for the proposed mapping to be changed for one of the sites to preserve more of a wetland. He recalled the proposed mapping appeared to him to be a hole in the doughnut and he asked for that to be corrected.

[248] All witnesses interviewed who were present at the briefing agreed that it was not specifically discussed who selected the properties. It was not raised by Mr. Amato or any of the

public servants present and Minister Clark did not ask that question. The minister said that he believed ministry officials were responsible for the project and were assisted by his staff.

[249] Minister Clark was asked if he was aware of steps taken by Mr. Amato at various times in this project, including presenting ministry officials with properties to be removed, and he always said no, he was not aware. I note his evidence in this regard is consistent with the evidence of staff from the Premier's Office, who also told me they were unaware that Mr. Amato identified almost all of the properties proposed for removal or redesignation.

[250] There is no issue that the late summer and fall of 2022 was a very busy time for everyone in the Ministry of Municipal Affairs and Housing but particularly for the Minister of Municipal Affairs and Housing. Minister Clark introduced the *Strong Mayors, Building Homes Act* on August 10, 2022. He addressed the 2022 Association of Municipalities Conference on August 16, 2022. In September 2022, he spent time in his riding when it hosted the International Plowing Match. In September, a close family member fell gravely ill and was hospitalized from early September to mid-November. On October 25, 2022, he introduced the *More Homes Built Faster Act, 2022*. His ministry also continued work on other ongoing and special projects, including the approval of official plans. Minister Clark advised me that he had six bills passed in the past 12 months, more than any other minister. He compared this to passing eight bills in the previous four-year term, which he said was also a busier term than for other ministries.

[251] I am satisfied from all the evidence that Minister Clark was not aware of the various steps taken by his chief of staff from September 15 to October 26. On September 15 they had met with Premier Ford and Mr. Sackville following which Mr. Amato told the minister to "Leave it with me" referring to the Greenbelt item. No further discussion took place between them on this item until the minister was briefed on it on October 26, before it was to go to cabinet a week later. It may seem incredible that Minister Clark would have chosen to stick his head in the sand on such an important initiative being undertaken by his ministry but I believe that was exactly what he did. This is partly understood by the fact he was busy during this period, he was aware that the outcome would be politically challenging for him given his completely opposite stance on the

Greenbelt for the whole of the government's first term, and here was Mr. Amato reassuringly offering to provide at least temporary relief from having to deal with it.

Cabinet Approval, Consultation and Removal

[252] The Greenbelt item went before cabinet on November 2, 2022.

[253] On November 4, 2022, in accordance with cabinet's decision, postings were made on the ERO for consultation on removal or redesignation of 15 Greenbelt properties, a redesignation of lands in the Oak Ridges Moraine as suitable for development in the near term, and the addition of lands from the Paris Galt Moraine to the Greenbelt.

[254] After the consultation closed on December 4, 2022, the matter returned to cabinet on December 8, 2022, at which time it was decided to remove or redesignate 15 areas of land from the Greenbelt, redesignate lands in the Oak Ridges Moraine for development, and add lands in the Paris Galt Moraine and Urban River Valleys to the Greenbelt.

Work of the Provincial Land Development Facilitator

[255] The Provincial Land Development Facilitator, Paula Dill, advised that she was given a mandate by Minister Clark to facilitate discussions on the 15 sites that were removed or redesignated "to achieve development agreements that would accommodate a shared vision for attaining the government objectives on these sites."

[256] As of August 8, 2023, Ms. Dill advised me that no final agreements have been reached but she has reached agreements in principle or draft agreements with respect to eight of the 15 areas removed or redesignated, namely: King Township, Minotar, Block 41, Leslie Elgin, Cline Road, 502 Winston Road, Nash Road, and Barton Street.

Details of how specific properties were selected

[257] As noted, 15 properties were either removed from the Greenbelt or redesignated. Mr. Amato was involved in the initial selection of 14 of these. Details of how 14 of the properties were selected are outlined below. The one property that Mr. Amato did not propose was the 37

acres of land held by Minotar Holdings Inc., which was a subject of litigation. The Minotar property was suggested by ministry officials. All 15 properties are identified in maps at Appendix B and C.

Cherrywood in Pickering, Leslie Elgin in Richmond Hill, Book Road in Hamilton, and Block 41 in Vaughan

[258] The removal in the Cherrywood area in Pickering totals approximately 4,262 acres. The removal in the Leslie Elgin area of Richmond Hill totals approximately 15 acres. The removal in the Book Road area in Hamilton totals approximately 1,837 acres. The removal in the Block 41 area in Vaughan totals approximately 15 acres.¹⁷

[259] Ms. De Gasperis told me that, after Mr. Amato contacted her to provide further information about Cherrywood following the BILD dinner, she took the opportunity to provide him with information about three additional properties: Leslie Elgin in Richmond Hill, Block 41 in Vaughan and Book Road in Hamilton.

[260] While Mr. Amato did not recall who brought the Book Road properties to his attention, he agreed that the other three were brought to his attention by either Mr. or Ms. De Gasperis. He said “I believe it was included in the Cherrywood package, because, as most developers do or landowners or stakeholders, they don’t just shoot their shot on one item; they ask for the moon and hope for something back. It’s like throwing spaghetti against the wall. I believe it was included in that document.”

[261] Asked what happened after the BILD dinner, Ms. De Gasperis recalls that she heard nothing for a while, then in early October she was surprised to receive a telephone call from Mr. Amato, who asked her for more information about Cherrywood, specifically GIS shapefiles and a legal description. She told him she would get the shapefile for him but that it would be complicated to get legal descriptions because her company is not the sole owner of all the lands in Cherrywood. She suggested Mr. Amato instead use the boundary shown on the shapefile. She

¹⁷ The acreage estimates cited in this report were taken from documents prepared the Ministry of Municipal Affairs and Housing and used by the Greenbelt team at meetings with Mr. Amato. It was anticipated these estimates might change when final mapping was completed.

recalls then asking Mr. Amato if the government was considering Cherrywood for removal from the Greenbelt. She remembers his response as “the government is looking at everything at this moment and have not made any decisions.” She told me that she perceived that as “a very positive conversation” and said, “well, if you are looking at everything, can I give you a few more parcels to look at?” She told me “he didn’t say yes, he didn’t say no”, so she decided to provide him with information about the Leslie Elgin and Block 41 properties, about which she had made prior requests during the 10-year review in 2015-2017, and he could “take it or leave it.”

[262] Ms. De Gasperis reported the call with Mr. Amato to Mr. De Gasperis. She believes that Mr. DeGasperis then spoke to Jack Eisenberger of Fieldgate Homes, a company with which TACC Developments often partners. Ms. De Gasperis recalls that Mr. De Gasperis asked her to also provide Mr. Amato with information about the Book Road properties, in which both TACC and Fieldgate were jointly invested.

[263] Ms. De Gasperis believes it took her a couple of weeks to put together a package of information for all four sites. She believes Mr. Amato called her once, to ask about the status of the information and she told him she was waiting for memoranda from consultants and believed it was important that all the information be considered together. She was clear she did not forward the information piecemeal as it arrived but assembled a single package of information about the four properties. She does not recall the exact date, but remembers she hand-delivered the package to Mr. Amato, who told her if he needed anything else he would let her know.

[264] Ms. De Gasperis said she heard nothing further from Mr. Amato until November 3, 2022, when he called and told her that the government had made the decision to move forward with the removals of Cherrywood and the other properties from the Greenbelt. Ms. De Gasperis recalls saying thank you very much and possibly said “wow” and that she was otherwise at a loss for words and very happy. She promptly notified Mr. De Gasperis, whom she recalls was also happy and at a loss for words.

[265] Mr. De Gasperis told me he did not recall speaking to Mr. Amato about his removal request after the BILD dinner. He said he did call Mr. Amato at some point during the fall of 2022,

at the request of a municipality, about changes Bill 23 was making with respect to parkland. Mr. De Gasperis said it was possible he mentioned Cherrywood during that call, as it is something he has felt very strongly about for a long time, but he has no recollection of doing so.

[266] Mr. De Gasperis was very clear that he did tell Jack Eisenberger of Fieldgate Homes that they were making submissions on Greenbelt removals. He explained that he works closely with Mr. Eisenberger, partnering on various development projects and they speak frequently. He said that Mr. Eisenberger told him to “get Book Road in there too.” Mr. De Gasperis then told Ms. De Gasperis to call Mr. Eisenberger or his consultant planner to get information about the Book Road properties to submit to Mr. Amato with the package about the other properties.

[267] Mr. De Gasperis told me he has been investing in properties in the Book Road area of the Greenbelt, working with Mr. Eisenberger and Fieldgate Homes, for the past several years. He told me that Mr. Eisenberger and his team were acquiring lands for development in this area and, as they purchased the lands, TACC Developments would purchase a 33.3 percent interest. Mr. De Gasperis purchased such interests several times in 2022, including with respect to properties for which an agreement of purchase and sale was entered into on October 19, 2022 and November 2, 2022. Mr. De Gasperis provided me with detailed documentation related to these and other purchases in the Book Road area, made as part of his dealings with Mr. Eisenberger.

[268] Mr. Eisenberger confirmed what Mr. De Gasperis told me. He recalls receiving a call from Mr. De Gasperis last fall, from which he understood the government “may have some appetite” for removing land from the Greenbelt. Mr. Eisenberger said Mr. De Gasperis told him he had received a call from government asking for more information about lands he was involved in, that he had no idea what the government was doing, and that he wanted information on the Book Road property they were invested in together to provide to government. Mr. Eisenberger generally recalls referring Mr. De Gasperis to the consultant planner he was using for the Book Road property. He does not recall hearing anything further about this removal request until after it was announced the land would be removed from the Greenbelt. Mr. Eisenberger also confirmed he has been acquiring lands in this area since about 2016 and provided me with a detailed rationale underlying this strategy and details of the acreage he has owned in this area

at various points in time. Briefly, he explained the area is accessible to highways, has commercial property nearby, abuts a community, and has a university nearby.

[269] I asked Mr. Eisenberger if, after speaking with Mr. De Gasperis, he spoke to anyone else about the possibility of lands coming out of the Greenbelt. He said, "I don't believe I did." Asked if he tried to acquire more land elsewhere in the Greenbelt and he said, "I don't think so."

[270] Mr. Amato confirmed that he received information about the Cherrywood, Block 41 and Leslie Elgin properties from either Mr. or Ms. De Gasperis

[271] Unlike the Cherrywood, Leslie Elgin, and Book Road properties which were on the ministry's table of properties (prepared by ministry staff for meetings with the minister's office) from October 6, 2022 onwards, the Block 41 property is first referenced on the table prepared for the October 21, 2022 meeting, in a note under the heading "Additional Lands included on MO provided USB keys." Ms. Manson-Smith advised that the Block 41 property was on the third USB key provided to her staff by Mr. Amato related to this project and that this material on the USB stick has a date modified of October 19, 2022.

King Township

[272] Approximately 522 acres was removed from the Greenbelt at the King Township site and 132 acres within the Oak Ridges Moraine Conservation Plan was redesignated from "countryside" to "settlement area" for a total of 654 acres.

[273] As set out above, at the September 14, 2022 BILD dinner, Mr. Rice mentioned this property briefly to Mr. Amato as a good candidate for removal from the Greenbelt.

[274] Mr. Rice told me that Mr. Amato called him at his office a few days or a week after the BILD dinner and asked if he could put together a package of information on the site. As a result of receiving this request, in combination with their brief interaction at the BILD dinner, Mr. Rice believed the government was looking at the Greenbelt.

[275] Mr. Rice said he would put together a package, which he then did, and then Mr. Amato came to his office to pick up the package around the end of September. They spoke briefly again at his office, and Mr. Rice said he “walked him through it,” saying “here is the site, here are the benefits.”

[276] Mr. Rice provided Mr. Amato with a document dated September 27, 2022, with a map outlining the area proposed to be removed from the Greenbelt, a rationale supporting the removal, a summary confirming consultants had been retained to do environmental and servicing assessments and an explanation of various servicing options for the site. John McGovern, Senior Vice President of Policy and Planning for the Rice Group, confirmed that he pulled together this package of information for Mr. Rice and that it was his understanding that Mr. Rice would be meeting with Mr. Amato the next morning. This indicates that Mr. Rice and Mr. Amato met on or about September 27 or 28, 2022.

[277] Mr. Amato confirmed that he called Mr. Rice a few days after the BILD dinner. He said he asked “if he could provide me with any additional information on the property. And I ran through some of the high-level criteria that we were discussing at the time. Those were questions that needed to be answered and he said he would get something together. But in that conversation, there was no mention of a program. It was just a question following up on something he mentioned to me in passing.” He confirmed he met with Mr. Rice at Mr. Rice’s office to pick up the package.

[278] Mr. Amato told me he did not know if he had met Michael Rice prior to meeting him at the BILD dinner.

[279] Mr. Rice told me he had met Mr. Amato at a handful of fundraisers and events prior to the BILD dinner. He also explained that in the spring of 2022 Mr. Amato assisted his daughter in organizing a fundraiser for Minister Caroline Mulroney, attended by approximately 25 people. This occurred while Mr. Amato was working for Minister Mulroney. Mr. Rice advised that he did not recall corresponding with Mr. Amato at the time, but that his daughter was in touch with Mr.

Amato in March of 2022, after her earlier contact in Minister Mulroney's office took a leave of absence, to decide the date of the fundraiser.

[280] When asked about this, Mr. Amato confirmed that he was briefly in touch with Mr. Rice's daughter to confirm a date for the fundraiser, but said he had no further involvement with it. He said it was not part of his duties to organize the fundraiser, only to coordinate it with the minister's schedule.

[281] There has been speculation in the media and in Ms. Stiles' affidavit that Mr. Rice must have been tipped off about the government's intentions, in part because he obtained title to it on September 15, 2022. This was less than two months before 522 acres of it were removed from the Greenbelt and 132 acres of it were redesignated as a settlement area within the Oak Ridges Moraine.

[282] Mr. Rice is an experienced land developer, who has significant industrial and commercial land holdings, in addition to some residential holdings. He is adamant that no one tipped him off or told him that the government would be taking land out of the Greenbelt. He said "[t]he crystal ball that they mentioned in the paper that we must have had is our knowledge and what we do on an every day basis on Greenbelt land, on Whitebelt land, on developed lands, lands that are going to come into the urban belt, airport land, that's our business." As set out above, at paragraph 95, Mr. Rice explained to me his longer-term rationale for thinking the government would permit development on Greenbelt lands at some point in the future because the housing crisis was becoming so acute with an increasing population and limited land supply. He told me he was convinced that the Greenbelt would open if even the Liberal Party came into power in the 2022 election and that if, by 2022, a developer was not thinking about the Greenbelt opening up "they were asleep." He noted that his staff track every municipal meeting in addition to provincial developments. As factors shaping his thinking, he pointed to some actions of this government, including that he understood the government had "told the regional municipalities, 'We want your [official plan] in here in June of '22. File it. It has to be done or we will take action on our own.'" He also mentioned the 2019 *More Homes, More Choice Act*, telling me "I mean that was the beginning of the smashing of the conservation authority which changes your

perspective on land.” He told me “So this government has made it abundantly clear since like ’19 or ’20, ‘This is what we’re doing, we’re moving development ahead.’ That didn’t mean ‘Yes, we are taking it out of the Greenbelt.’ They never said that. I said they’re taking it out of the Greenbelt because we don’t have land.”

[283] Mr. Rice shared with me copies of agendas for his company’s acquisitions meetings from April through November 2022, indicating there was a “Greenbelt Strategy” item discussed regularly with a number of different areas and sites discussed, including the King Township property.

[284] Mr. Rice candidly admitted that his interactions with Mr. Amato, specifically their brief interaction at the BILD dinner and then Mr. Amato’s request for further information and visit to Mr. Rice’s office to pick up that information, “told me that they were looking at the Greenbelt.” However, he said that “in fairness to Ryan and the minister, he never told me they were doing it.” Mr. Rice was also clear he didn’t think it was going to happen as early as November 2022.

[285] Mr. Rice provided me with a copy of the investment proposal he developed for potential investors. He advised that he “syndicated” this land deal, by taking on several other investors to fund a large proportion of the \$80,000,000 purchase price for this property. Taking on limited partners lowered both his risk and the profits he might earn from this investment. He told me, and I accept, that if he had known the lands would be removed from the Greenbelt so soon, he would have funded the purchase himself. He also told me that he offered the vendor, Schickedanz Brothers Ltd., an opportunity to participate in the investment but that they declined.

[286] I spoke with Bob Schickedanz, a partner in Farsight Homes and former president of the Ontario Home Builders Associations from 2019 to 2022. He confirmed that while he is not on the leadership team of Schickedanz Brothers Ltd., he worked there from the early 1980s to the late 1990s, he has an interest in this family company and was familiar with the sale of the property to the Rice Group. He explained that Schickedanz Brothers Ltd. was leaving the land development business and offering this property for public sale for \$80 million was part of this process. He was aware that subsequent to entering into the initial agreement of purchase and sale, Mr. Rice had

made two further offers to Schickedanz Brothers Ltd. with respect to this property. One was to participate in syndication and remain invested in the site, and the other was to agree to a one-year extension of the agreement of purchase and sale, with a new price of \$200 million. He said his family business decided to proceed with the initial agreement closing in 2022 because they thought it was a good deal and, in their view, the one-year extension would not likely result in a sale and the land would have been tied up for another year. He said they had absolutely no idea the government was considering removals from the Greenbelt.

[287] It also has been brought to my attention through media reporting and submissions received from the public, that there was speculation that Mr. Rice must have known something in advance about the government's intentions. This speculation was founded largely because before the November 4, 2022 announcement on Greenbelt removals, Mr. Rice was in discussions with a local hospital and representatives of King Township about using some of this property for a new hospital site.

[288] My staff interviewed the mayor and chief administrative officer of King Township. Both confirmed that in the summer of 2022 the mayor raised with Mr. Rice the possibility of using some of this land for a hospital. The mayor explained that he was of the view that a hospital located within King Township would be very beneficial to his community and it was his understanding that, unlike other types of development, hospitals were permitted to be built on Greenbelt lands and not subject to the sewage treatment allocation rules that could potentially limit residential development in the area. The mayor explained that other lands in the vicinity had already been discussed as a possible hospital site and that if Mr. Rice contributed land from his recently purchased property, he believed it would potentially be a viable option for the hospital and a significant benefit for King Township.

[289] Both Mr. Rice and Mr. McGovern, who also attended the meeting with the mayor and the chief administrative officer, told me these officials initiated the conversation about using some of this particular piece of land as a new hospital site. They also told me that Mr. Rice had already been discussing using other properties he owned in the region for the new hospital site and provided documentation to support his evidence in this regard with respect to past

communications with hospital officials and other sites under consideration. With respect to the King Township site, Mr. Rice and his employee told me they were interested in the hospital option, as they anticipated they would be able to potentially develop medical buildings, a long-term care facility and other long-term assets on land that was in the Greenbelt and not necessarily available for other types of development.

[290] Mr. Rice explained that if he had known in the summer of 2022 that the King Township property would be removed from the Greenbelt, he would not have entered into the discussions about using part of this particular site for the hospital. However, he told me that given his earlier discussions, he is “committed” and “sticking to it” with respect to making land available for the hospital.

[291] Mr. Rice also confirmed that he had retained Nico Fidani-Diker, Principal at ONpoint Strategy Group, to assist with obtaining municipal support for projects in the Town of Caledon and Region of Peel in the summer and fall of 2022. He said that Mr. Fidani-Diker was not hired to lobby at the provincial level.

Nash Road, Clarington

[292] The area removed from the Greenbelt from the Nash Road lands in Clarington is approximately 86 acres.

[293] Information about the Nash Road property was included in the first package given by Mr. Amato to ministry officials on or about October 3, 2022.

[294] At his first interview with me, Mr. Amato was asked how this property came to his attention. He said he could not recall. He said he was not familiar with Peter Tanenbaum, whose name appears on land registry documents for the property.

[295] In an interview with my office, Peter Tanenbaum confirmed that he has been an owner of this property since before the creation of the Greenbelt. He advised that he has advocated over the years to have this property developed, including through the 2015-2017 10-year Greenbelt boundary review process. He said he had met with members of provincial parliament

about it over the years, but that he had not contacted any of them or any provincial government officials about the land in 2022. However, he also told me that in 2022, he had two consultants working for him: one I shall call Mr. X in this report, for reasons I will explain later, and Nico Fidani-Diker.

[296] Mr. Tanenbaum told me that he believed Mr. X had contacted the provincial government about the property. He was not sure if Mr. Fidani-Diker had contacted the provincial government about it or not.

[297] Mr. Tanenbaum produced his contracts and correspondence with Mr. X and with Mr. Fidani-Diker.

[298] The contracts with each consultant are similar in many respects. Both indicate that “the parties desire to work together to remove the Lands from the greenbelt, rezone the Lands to permit development and, ultimately dispose of the Lands (“the Project”).”

[299] The contract with Mr. X’s company says it was made as of August 9, 2022. Section four of the contract indicates that he was to be paid a monthly fee of \$6,000 per month and an additional “Greenbelt Fee” and “Rezoning Fee”, on the following terms:

- (a) The Greenbelt Fee shall be the amount of \$225,000 and shall be earned, but not paid, once final approval has been obtained from any relevant government party for the removal of the Lands from the Greenbelt; and**
- (b) The Rezoning Fee shall be the amount of \$775,000 and shall be earned, but not paid once final approval has been obtained for the Lands to be developed for residential housing in a manner satisfactory to the Company.**

The Greenbelt Fee shall be paid within 120 days following the date the final appeal period to remove the lands from the Greenbelt (for any reason) expires. The Rezoning Fee shall be paid within 120 days following the date the final appeal period for rezoning the Lands (for any reason) expires.

It should be noted that section 3.2 of the *Lobbyists Registration Act, 1998* [“LRA”] prohibits lobbying when payment is contingent on the degree of success in lobbying.

[300] The contract with Mr. Fidani-Diker's company states that it was made as of September 1, 2022. Section four of that contract indicates that he was to be paid \$10,000 per month.

[301] Mr. Tanenbaum provided me with a copy of an email he received from Mr. X on August 18, 2022, in which Mr. X wrote:

Update:

I spoke to [name deleted], Clarington's new Director of Development Services and he's totally in support of what we are doing.

As the Region wants to pass it's [sic] OP soon, I am calling MMAH contact to determine how they want us to deal with it. For example will they put something in the legislation, should the legislation speed up or will they continue to hold back the OPs until this legislation and some other has passed.

I would like to get our platinum presentation and documentation together for end of next week or when Peter is back. I think we need to establish what we want in that and I can get feedback from MMAH. We also need it for the MPP meeting. Peter or Chris can you comment on this please.

[302] Mr. Tanenbaum also provided me with an email he received from Mr. X on August 25, 2022, in an email chain including the email above, responding to an email suggesting they review the presentation. In the email dated August 25, 2022, Mr. X wrote to Mr. Tanenbaum and his colleagues:

Yes.

I know Peter had found a few new documents a couple of weeks ago that we should incorporate.

I am going to schedule my meeting with MMAH staff that is writing the order in Council for the week after next so if we can have a final version by next Friday.

She is a friendly so if she sees any redline revisions she will suggest as well.

[303] I note that in the course of my witness interviews and review of documents gathered in this inquiry, I have not been able to identify the ministry staff referenced in this email or confirm whether this person exists or not.

[304] Mr. Tanenbaum provided me with further emails about revising the presentation, including an email he received from Mr. X on September 18, 2022. In that email, with the subject line “Re: Updated PP,” Mr. X stated the following:

All,

I have a lunch meeting next week with Kirstin and the Chief of Staff Ryan D’Amato [sic] is coming as well. Ours is the only file that I am discussing.

I also have them coming to golf at Goodwood in 2 weeks with me and to. Raptors game.

I did have a meeting with Nico Fidani and I expect his proposal by Friday.

We may actually be looking at an even more expedited process, I will be in a better position next week to advise on that.

[305] Mr. Tanenbaum provided me with an email he received from Mr. X on October 7, 2022, in which Mr. X wrote that Mr. Amato had asked for a legal description of the lands and GIS shapefile mapping no later than Tuesday.

[306] Mr. Tanenbaum provided me with an email he received from Mr. X on October 21, 2022, in which Mr. X asked four questions: “Do they have municipal confirmation/talked to municipality that there is support/and servicing? Has developer committed to paying for service extension/from [sic] end agreements? Have they confirmed servicing capacity? Does existing servicing go right up [sic] their property?”

[307] Mr. Tanenbaum provided me with an email he received from Mr. X on October 23, 2022, which was also copied to Mr. Fidani-Diker. This email stated: “Here it is again with a grammatical correction.” It attached a copy of the document with responses to the four questions referenced above and additional information. The document was dated October 23, 2022 and titled “Nash Road Developments Inc. – Municipality of Clarington.”

[308] A copy of this document, answering the same four questions, was also provided by Minister Clark in response to a request for copies of all written communications between his staff

and developers, landowners, and their representatives. The copy received from the minister has the word “The” in the title, but they are otherwise the same.

[309] During this inquiry, Mr. Amato was asked if he was familiar with Mr. X. Mr. Amato initially responded “I know of [Mr. X].” When asked if he had any contact with Mr. X, Mr. Amato advised “I only have dealt with [Mr. X] in a professional manner.” Mr. Amato then explained Mr. X is a development consultant who has called him about “MZOs and things for his clients, stuff like that.”

[310] Mr. Amato was then asked “And have you been able to facilitate anything for him?” to which Mr. Amato responded “I don’t think we actually have done anything for any of [Mr. X]’s clients. I would have to go back and look, but to the best of my knowledge we haven’t. Or at least I haven’t, since I have been chief of staff, and not just because, I don’t think he has had anything come forward.” Asked how he could go back and look, Mr. Amato said, “I would have to ask my predecessors what they did with [Mr. X]” and “To the best of my knowledge, I haven’t done anything with [Mr. X].” Given the evidence that follows, I find that Mr. Amato’s attempt to this point in his evidence to downplay his relationship with Mr. X strains credulity somewhat.

[311] Mr. Amato was then asked why he had not facilitated anything for Mr. X, referencing evidence that he had facilitated meetings with ministry officials for another person. His response to that question and follow up questions are set out below:

A. People call for...and do stuff all the time. If you can do something you can, if you can't, you can't, but it doesn't stop you listening to them, right? It is not like a ... it is ... you don't just pull names out of a hat. Like, I am trying to build a million-and-a-half homes, and it is ... if Mr. X comes with something viable that makes sense, that the government can stand behind and support, I am happy to work with him.

Q. Okay. Do you remember him coming to you with anything like that?

A. No, I think he just...I think he provided me with maybe the Nash Road stuff but...

Q. How did he provide you with the Nash Road stuff?

A. I believe he gave me the GIS shapefile with the USB. Or he, or someone on his behalf. Like, I am not...anyways, it would have come electronically because the GIS shapefiles are so big, you get them electronically.

- Q. Okay. So, how did he first get connected to this Greenbelt project? He gave you the USB shapefile. Let's go to that.
- A. That I actually don't have a memory on, because I know you have shown me the Nash Road deck in the past and things like that. I am really not sure.
- Q. M'hmm.
- A. That could have come through various channels, and we just had it at the Ministry.
- Q. So, then he had it, and then so I understand it was a fairly routine request to get the shapefile...
- A. Yes.
- Q. ...through everyone. So, who did you reach out to for that property?
- A. That I don't recall, maybe Mr. X.
- Q. And how would you know to reach out to Mr. X?
- A. I don't know. I think maybe Kirstin. Kirstin got the deck for the Nash Road site.
- Q. And how do you think she got it?
- A. Well, I am just piecing...like, you are asking me to piece things together in my head. I think there was a meeting that she went to with Mr. X on something else, and I didn't show up to. And that is really the only track I could say of how this would have come in.
- Q. "There was a meeting Kirstin went to with Mr. X on something else that I didn't show up to", so I am curious. What was that meeting supposed to be about that you didn't show up to?
- A. Probably Official Plans.
- Q. Okay. And why do you remember that meeting if you didn't show up to?
- A. Because she yells at me when I don't show up to stuff I say I am going to show up to.
- Q. Do you remember her yelling at you for not showing up to the meeting...
- A. She doesn't actually yell at me, she just, like..."Ah, you are leaving me and I am doing this by myself". I think she did, yes.
- Q. Do you remember when that was?
- A. It would have been September-ish, maybe October. I really don't remember.

[312] Mr. Amato could not recall who booked the meeting with Mr. X, but advised "it wouldn't have been the first, like, cold call from Mr. X. He would have called a few times. He said he could

not recall if it was a lunch or just a meeting and that “I just didn’t go. I had something else going on and I didn’t attend. She went.”

[313] Mr. Amato’s interview then continued as follows:

Q. Anything else you remember about this?

A. No.

Q. Have you ever gone for lunch with Mr. X?

A. No.

Q. Do you recall being invited to lunch by Mr. X?

A. No.

Q. Do you remember Kirstin giving you anything after she apparently went to this meeting and may have been upset with you for not showing up and leaving her on her own?

A. No.

Q. Do you think it is possible that she gave you the Nash Road deck?

A. I think that is...yes, that is plausible, yes. Or possible, sorry.

Q. Do you remember talking to Kirstin about it?

A. No.

Q. Okay.

A. I think Nash Road, the important thing to know about Nash Road is that it is, like, one of the ones that has a ton of community support, council resolutions. Like, it was very well known by the government, and it was one of the ones that they were surprised, based on all those reports, that didn’t get removed in 2015, 2017.

[314] Evidence from Mr. Amato’s calendar and that of Deputy Chief of Staff Kirstin Jensen was reviewed with Mr. Amato, indicating that Ms. Jensen had a lunch booked by someone from Mr. X’s company on September 27, 2022 at a restaurant and that Mr. Amato’s calendar had the same time blocked off and marked “private.” Mr. Amato agreed it was a “fair assumption” that this was the meeting he booked with Mr. X but did not attend.

[315] Mr. Amato was asked if he had gone to any sporting events with Mr. X. He said no. He was asked if he had gone golfing with Mr. X and again responded no. When asked if he recalled being invited to go to any sporting events or golf with Mr. X, Mr. Amato replied: “I think he invited

me to golf once, but I didn't go." He did not recall when that was but said this golf invitation was received after he started working for Minister Clark.

[316] Mr. Amato confirmed that in addition to asking Mr. X for a GIS shapefile, he would have said something to Mr. X like "We are taking a look and we need more information." Asked if he had any other conversation with Mr. X, Mr. Amato said "Not really, no." When asked to explain what he meant by that, Mr. Amato said "I mean, I think he invited me to golf. Like, not like he has asked me to do things, and he is one of those guys that you just 'yes them to death' and then you cancel, or you don't show up, or you just say no, right?" and "then they get the message that you really don't want to spend any time with them and they stop inviting you to stuff."

[317] Shown the email from Mr. Tanenbaum in which Mr. X reported plans for lunch, golfing and a Raptors game with Mr. Amato and Ms. Jensen, Mr. Amato advised he has never been to a Toronto Raptors game with Mr. X. When asked if he recalled being invited to one, he said he wouldn't remember, explaining "lobbyists try to invite people to games and things all the time" but that he is fortunate to have tickets regularly available to him through his family and therefore does not care about such offers. Asked if Mr. X invited him to golf, Mr. Amato confirmed "He did, yes, that he absolutely did, and I didn't play."

[318] Mr. Amato did not remember calling Mr. X on November 3, 2022 to advise the government would be announcing a public consultation on removing this land from the Greenbelt, but said it was possible that he did. Since then, Mr. Amato thinks he has had a handful of conversations with Mr. X, not about this project, but a possible MZO request. Mr. Amato could not recall the details of the MZO request.

[319] Ms. Jensen was interviewed about her contacts with Mr. X. She said that she initially heard of him in the spring of 2022, when a colleague told her he was someone who did a lot of work with municipalities and that he would be a good connection for them to make. The colleague asked if Ms. Jensen would meet with him. Ms. Jensen advised that nothing happened at that time, but in the fall of 2022, Mr. X called her and mentioned that the former colleague had given him her contact information. Ms. Jensen recalls Mr. X told her he had not had reason to reach

out previously, but now he would love to have lunch and could they set something up. She said they agreed on a date and Mr. X's assistant selected the restaurant.

[320] Ms. Jensen confirmed that, as recorded in her calendar, the lunch took place on September 27, 2022 at Joey Eaton Centre. She recalls Mr. X asking about her role in the minister's office, her background, and what she did as a planner in government. She knew he was a former municipal politician and they discussed municipal politics. She recalls he had a couple of MZO files and ran through the merits of those requests with her, but she did not recall the details of them.

[321] When asked why, if she knew they would be discussing files, she met him at a restaurant instead of at the office, she said lunch meetings happen all the time and are not uncommon.

[322] Ms. Jensen said Mr. X probably paid for her lunch.

[323] When asked if she recalled discussing anything else at the lunch, Ms. Jensen said no.

[324] When asked if anything related to the Greenbelt came up at this lunch, Ms. Jensen said no.

[325] When told that Mr. Amato said he believes she received the Nash Road information at the lunch with Mr. X, Ms. Jensen said "I remember there was a handout. I didn't look at it. He said 'can you give this to Ryan' and I gave it to Ryan." She said it happens all the time that people give them materials and say here is something you should look at. She said that because she was asked to give it to Mr. Amato, she did not look at it and that she does not look at things not addressed to her. She did not ask Mr. X or Mr. Amato what the handout was. She believes Mr. X may also have given her a map related to a MZO request he discussed with her and agreed to look for it in her office, but was unable to locate it.

[326] She did not clearly recall if Mr. Amato had been invited to this lunch with Mr. X or if she had put the lunch in his calendar but said it was possible that she did as she often prefers to have another colleague with her at such lunches.

[327] Ms. Jensen said she had never gone golfing or to any sporting events with Mr. X and had not received any invitations from him to golf or attend a Toronto Raptors game.

[328] Ms. Jensen advised she had not seen the Nash Road presentation prior to being shown it during her interview with me, and that she did not see any drafts of it. She has “no idea” who is Mr. X’s contact referred to in his emails as “a friendly.”

[329] Mr. Fidani-Diker was interviewed during this inquiry. Mr. Fidani-Diker told me he began a government relations and lobbying business, ONpoint Strategy Group in or about July 2022. He previously worked in the Premier’s Office from 2018 to 2021. From 2018 to 2020, he worked closely with Premier Ford as his executive assistant, then took on the role of manager of stakeholder relations in the Premier’s Office. In 2021 Mr. Fidani-Diker left the Premier’s Office to work for the Ontario PC Party as manager of stakeholder relations and development. Mr. Fidani-Diker had previously worked for Premier Ford’s brother Rob Ford when Rob Ford served as mayor of the City of Toronto. Mr. Fidani-Diker confirmed he has known Premier Ford for a long time, as their families are friends. Mr. Fidani-Diker attended both the stag and doe and the wedding held for Premier Ford’s daughter in August 2022. Many elected officials and political staff attended the launch party Mr. Fidani-Diker hosted for his business on September 7, 2022, including Minister Clark and Mr. Amato, along with many land developers and people from many other businesses and organizations.

[330] Mr. Fidani-Diker confirmed that he has provided advice to Mr. Tanenbaum and his colleagues about developing the Nash Road property since last fall.

[331] In his interview during this inquiry, Mr. Fidani-Diker confirmed that he had been hired by Mr. Tanenbaum to assist with this matter. He told me that his role has been confined to providing advice to his client and that he has not directly communicated with Mr. Amato, Ms. Jensen or anyone else in the provincial government about this matter. He said that Mr. Tanenbaum told him at their initial meeting in August, 2022 that Mr. X was already in touch with someone in the provincial government about this property and asked Mr. Fidani-Diker whether he had ever “worked through another consultant on files.” Mr. Fidani-Diker said that as they negotiated the

retainer agreement, he was told “We don’t want you talking to the government and that your responsibilities will be mainly working through Mr. X as he liaisons [sic] with the government.”

[332] Mr. Fidani-Diker told me that starting in September, he participated in biweekly calls about how the effort was going and how to support it. Mr. Fidani-Diker told me he recalls telling both Mr. Tanenbaum and Mr. X that “you know, in my time in government or at the party, this [Greenbelt removals] was never an option” and “I am not as confident as you are.”

[333] Mr. Fidani-Diker told me that at some point Mr. X advised him that GIS mapping had been requested. He was asked at that time by Mr. X “Does this mean this is really happening?” Mr. Fidani-Diker responded that another client had been asked for the same type of information, they also don’t know exactly what is going on and what the next steps are, but that Mr. X should prepare the material and send it to whomever asked for it. He recalled that a summary was also requested for both the Nash Road and his other client’s properties, on “the affordability piece” and “some certain criteria that the government was looking for.”

[334] As set out below, Mr. Fidani-Diker was in contact with Mr. Amato about Greenbelt removal requests on behalf of Penta Properties. Mr. Fidani-Diker told me he believes that when Mr. Amato called him about the GIS file for Penta Properties, Mr. Amato told him that he had also asked Mr. X for the files on Nash Road. Mr. Fidani-Diker said that he received a telephone call from Mr. Amato on November 3, 2022 advising him that one of Penta’s properties would be posted for consultation on November 4, 2022. Mr. Fidani-Diker said he did not recall if Mr. Amato mentioned something about the Nash Road property during that call, but volunteered that it was possible that he did.

[335] Mr. X was not interviewed during this inquiry and has not had a chance to respond to any of the evidence gathered and offer his evidence as to what occurred. This is for a number of reasons. First, he is not a respondent in this inquiry. Second, for the purposes of this inquiry, which is conducted under the *Members’ Integrity Act* and focused on gathering evidence to assist me in reaching an opinion as to whether Minister Clark has contravened sections 2 and 3 of the Act it is my assessment that, given the evidence of the other witnesses and the documents they

have provided, his evidence is not necessary for me to determine on a balance of probabilities how this property came to Mr. Amato's attention and was dealt with by him, other public servants and Minister Clark. Third, the Ontario Lobbyists Registry does not contain a registration filed by Mr. X with respect to this matter. This fact and the evidence gathered during this inquiry raise issues about possible non-compliance with the *Lobbyists Registration Act, 1998*. I will deal with the possible non-compliance separately, in my capacity as Ontario's Lobbyist Registrar, outside of this report and inquiry. I also note that the LRA contains clear confidentiality provisions which limit my ability to report publicly. These include section 17.10 which prohibits me from stating whether an investigation under that act is being conducted or not. I have included the evidence gathered concerning Mr. X to demonstrate the potential effect that unregistered lobbying could have on the process adopted in this case for Greenbelt removals. I will have more to say on this subject later in the Analysis and Recommendation sections of this report.

[Penta - Mount Hope in Hamilton and the Penta Properties in Burlington and Binbrook](#)

[336] Three properties were put forward for removal by Penta Properties and considered by the Greenbelt team, who identified them on the table of properties as Penta – Burlington (159 acres), Penta – Binbrook (950 acres) and Penta – Mount Hope (167 acres). Only the Mount Hope site was ultimately removed in December 2022. The other two Penta properties were not removed or redesignated at that time.

[337] Despite the property being identified with the name of the company on the ministry's table, Penta Properties owns only about 31 acres of the 170 acres removed from the Greenbelt at the Mount Hope site. The 31 acres owned by Penta Properties is on the edge of the Greenbelt but not by itself adjacent to any existing urban area.

[338] At his first interview with our office, Mr. Amato was asked how this property came to his attention. He said he could not recall.

[339] Mr. Fidani-Diker said during his interview that he brought all three Penta properties to the attention of Mr. Amato.

[340] Mr. Fidani-Diker explained that he was retained by Penta Properties, now operating under the name of the Alinea Group Holdings Inc., in 2022 to assist with its requests for official plan amendments relating to three or four properties owned in the Halton area that were not in the Greenbelt.

[341] Mr. Fidani-Diker recalls being asked by this client if he thought the government would consider Greenbelt changes. Mr. Fidani-Diker told me: "I said 'I highly doubt it. In my time there, it was never an option.' They mentioned to me that they had various properties within the Greenbelt that they wanted the government...to bring to the government's attention or have them consider. And, you know, I kind of laughed because, given my time in government I was well aware of developers just kind of passing on information about their Greenbelt properties. And so they had compiled a list of their properties that were within the Greenbelt and there was kind of a little bit of a summary regarding each one and asked that I pass that along."

[342] Paul Paletta, the Chief Executive Officer of Penta Properties, confirmed that he gave Mr. Fidani-Diker a package of information about lands they would like to be considered for removal from the Greenbelt "if the opportunity comes," adding that there are always rumours that the Greenbelt boundary line may change.

[343] Mr. Fidani-Diker initially told me that he passed on a package of information prepared by his client to Mr. Amato. This occurred at a meeting scheduled to discuss the official plans work he was doing on behalf of Penta Properties, unrelated to the Greenbelt. When asked if he recalled any conversation with Mr. Amato about passing on this request, he said: "I think when I had originally given him the documents, I laughed at him ... I laughed at me being in that position when I was in government. Like 'Now I am being one of those guys handing you a Greenbelt property that you will probably do nothing with.' " Mr. Fidani-Diker provided me with calendar entries indicating this meeting took place on October 6, 2022.

[344] At his interview, Mr. Fidani-Diker recalled that he later received a telephone call from Mr. Amato "asking for GIS mapping and a little bit of a summary for one of the sites." Mr. Fidani-Diker told me: "So I was a little taken aback and I said 'Yes, I am going to get that for you. Is there

actually a chance of this happening?’ And he goes ‘There is some consideration being made,’ something along those lines.” Mr. Fidani-Diker believes he gave a USB stick with the mapping and information to Mr. Amato in person at another official plan meeting but does not recall any discussion about it. He said he did not hear anything further from Mr. Amato until November 3, 2022, when Mr. Amato called him to let him know there was going to be an announcement the following day regarding some Greenbelt changes.

[345] Mr. Paletta told me he was aware that Mr. Fidani-Diker received a request from the government for shapefiles and legal descriptions. He said his thinking at that time was “they must be making some changes – let’s hope for the best.”

[346] Following his interview, Mr. Fidani-Diker provided me with an electronic copy of all documents he provided to Mr. Amato supporting his client’s Greenbelt removal requests. These documents included a number of maps. One map identified only the 31-acre property owned by Penta Properties in the Mount Hope area with a label “REMOVE FROM GREENBELT,” while another map proposed a much larger area to be removed, with the northwestern corner of that larger area arguably kitty-corner - and undisputedly much closer to - an existing urban area.

[347] The two-page typed summary of information about the three Penta properties addresses at a high level the same information the ministry began tracking on its chart around October 6, 2022. Specifically, the summary for each property opens with a statement that the property abuts the urban boundary, the next paragraph addresses servicing for the site and then environmental features are addressed, with statements that either significant natural heritage features are not present or that some of the land has had the topsoil stripped, leaving subpar soils.

[348] Following his interview, I also obtained email messages from Mr. Fidani-Diker’s client that indicated Mr. Fidani-Diker had requested the shapefiles and legal descriptions from them on October 6, 2022, which was earlier than I understood from his interview. I therefore asked Mr. Fidani-Diker to review his correspondence and specifically address whether it was likely or not that he had earlier discussions with Mr. Amato and whether the latter had disclosed to him the criteria being considered, including whether the site was adjacent to an existing urban area.

[349] Mr. Fidani-Diker advised me that, after reviewing his emails, he believes that sometime between September 26 and October 6, 2022, he had a phone conversation with Mr. Amato, letting him know his clients were interested in removing parcels of their land from the Greenbelt. According to Mr. Fidani-Diker, Mr. Amato advised him that the government had not made any decision regarding potential changes to the Greenbelt at that time but that Mr. Fidani-Diker was welcome to submit a package highlighting any such proposals.

[350] Mr. Fidani-Diker says he then attended the October 6, 2022 meeting with Mr. Amato and gave him the package from his client about the Greenbelt request. Mr. Fidani-Diker says that during this meeting with Mr. Amato, he was advised that “should the government ever consider such changes, Shapefiles, GIS mapping and PINS [legal descriptions] would be required.” Mr. Fidani-Diker says he advised his clients the same day to begin preparing the documentation.” He received some of the information from his client the same day and while he cannot recall the exact date, he believes he provided it to Mr. Amato shortly after October 7, 2022.

[351] Mr. Fidani-Diker advised that Mr. Amato then called him around October 24, 2022, requesting that his client submit a document that answered four questions that he asked him verbally during the telephone call. These questions were about municipal support and servicing, willingness to pay for servicing extensions and front-end agreements, servicing capacity, and “does the existing servicing go right up to the subject property?” Penta Properties responded no to that last question, stating “[n]ot currently, however these services will be planned for and installed as part of the Airport Growth District” and suggested services could be extended “in the nearer term under a Front-Ending Agreement scenario...”

[352] Mr. Fidani-Diker’s counsel also submitted that “[t]he decision to extend the proposed boundary adjustment was a planning decision – it is common knowledge in the industry that boundary adjustments cannot be made to a “hole in the doughnut” and further that “[i]t is incorrect to infer or suggest that this decision was made or derived from a list of criteria provided by Mr. Amato to Penta and/or Mr. Fidani-Diker in advance.”

[353] Asked why Penta proposed a larger area to be removed, Penta's Director of Real Estate Dave Pitblado noted that Penta's property is at the eastern end of the proposed removal area and that "in order to develop our piece, in theory that entire area should be looked at to open up rather than just highlighting our 31-acre property." He denied that Mr. Fidani-Diker talked to them about including the larger area of land. He said "No, that was through Paul [Paletta]" and that there was no real science to it, but they thought it "made sense" to connect that entire area.

[354] Mr. Paletta told me he did not recall why they asked for a larger area to be removed. Mr. Amato was advised of Mr. Fidani-Diker's evidence that he had given the package of information about the three Penta properties to him at an in-person meeting about official plans. He said he recalled having official plan meetings with Mr. Fidani-Diker in the fall of 2022 and "it is very possible, like every lobbyist, every developer, we meet within an official capacity, and we talk about A and then they bring B, C, D, and E..." He noted that they grant meetings "to anybody that asks, any of the development lobbyists that want or development lawyers that want to talk to us about official plans, we will sit down with. So it is not unique to who knows who." Mr. Amato said that he did not recall telephoning Mr. Fidani-Diker to request the GIS shapefile but said Mr. Fidani-Diker's evidence was correct, is consistent with what he did in this project and said "so if he is saying that happened, I will concede that it happened."

[355] Mr. Amato did not recall receiving the GIS shapefile on a USB stick from Mr. Fidani-Diker but agreed he likely did so. However, he disagreed with Mr. Fidani-Diker's evidence that he said "There is some consideration being made" in response to the question "Is there a chance this is happening?" Mr. Amato told me he would not have said that "because ... I did not believe we were going to do this. As I have said many times, I would not have tipped my hand, and I would not have leaked confidential information to a lobbyist or a stakeholder because one, it is inappropriate and two, I just, even a wink and a nudge, I just did not believe this was going to happen."

[356] Mr. Amato said he did not recall telephoning Mr. Fidani-Diker on November 3, 2022 to let him know the property would be posted for consultation the next day, but agreed it was possible he did, noting "like I said, I called the landowners or the representatives that I was

dealing with on November the 3rd, to let them know that they were about to join us in the media shit storm.”

[357] Mr. Amato advised he has known Mr. Fidani-Diker for five years. He described Mr. Fidani-Diker as “just somebody I know through work” and not a friend. He said that in the fall of 2022 he did not perceive Mr. Fidani-Diker as someone important to Premier Ford and said he had no idea their families might be friends. He did attend the launch party for Mr. Fidani-Diker’s business on September 7, 2022.

[358] Ms. Jensen also has a calendar entry for a meeting, on October 6, 2022, titled “OPA Review Nico Fidani” from 12 to 1pm. She advised she thought this meeting was virtual rather than in person, but recalled it took place at lunchtime. When advised of Mr. Fidani-Diker’s evidence that he had given the information about the three Penta Greenbelt properties at a meeting with Mr. Amato on October 6, 2022, she said she had never talked to Mr. Fidani-Diker about the Greenbelt, only about official plans. Her calendar shows many other meetings related to official plans but the attendees are not always identified.

[359] Mr. Amato does not have the same calendar entry for the October 6, 2022 meeting as Ms. Jensen. His calendar shows nothing booked from 12 to 12:30 p.m. and a meeting with the ministry Greenbelt team from 12:30 to 1 p.m. His calendar does show the meeting with Mr. Fidani-Diker on November 17, 2022, from 12 to 1pm. Similarly, his calendar contains multiple meetings related to official plans but the attendees are not always identified.

[360] Asked how many landowners with whom she has been dealing regarding the 170-acre site removed near Mount Hope, the Provincial Land Development Facilitator Ms. Dill advised on August 7, 2022, that she has only had contact with Mr. Paletta, Mr. Pitblado and their representative, Matt Johnston of Urban Solutions. She advised they said they would provide her with a “concept for the lands” but as of that date she has not received it.

[361] Mr. Pitblado also told me that with the assistance of their urban planner, Mr. Johnston, Penta Properties had attempted to arrange a meeting with landowners in the area to discuss if they were interested in selling their lands to them, but it was “poorly attended.” He said they

“really didn’t engage with us.” Asked if anyone was taking a leadership role or stepping up to assist in getting a subdivision together, he said “no. It’s basically we’re here because we asked for it. None of the other landowners have stepped up to take a role in what happens next.” He said to his knowledge the landowners are farmers or individual small property owners, not developers.

[362] I find it extraordinary that Penta would make an application to remove a 170 acre parcel from the Greenbelt when they owned only 31 acres of that parcel without consulting the other landowners first. They did it to avoid having their land rejected as amounting to no more than a hole in the doughnut. It is not clear what consideration was given in the selection process to the fact that the owners of the other 139 acres were not aware of the application and whether their lack of knowledge was even known by the Greenbelt team. It is little wonder that so few people attended the meeting called by Penta or engaged with the developer. Similarly, it is not surprising that little progress has been made through the Land Facilitator process. The majority of the owners seem content to continue farming their lands or staying in their homes rather than being part of developing the parcel.

[363] When Mr. Pitblado was asked if Penta could still develop its own 31 acres, notwithstanding that it would be a hole in the doughnut on its own, he claimed it could proving again Mr. Van Loan’s assessment of developers as being “congenitally optimistic”.

5662 and 5474 19th Avenue, City of Markham – the Flato Lands

[364] Approximately 10 acres of this 102-acre property was removed from the Greenbelt in 2022. The remainder existed outside the Greenbelt.

[365] Shakir Rehmatullah is the owner of Flato Developments Inc. and the property located at 5662 19th Avenue and 5474 19th Avenue property in the City of Markham (“the Flato Lands”). He purchased this property in 2017.

[366] By letter dated September 27, 2022, Mr. Rehmatullah’s lawyer, Katarzyna Sliwa of the Dentons law firm, wrote to Mr. Amato to request the Greenbelt Plan boundary be revised to

exclude a portion of her client's lands at this location. Her letter references an earlier 2017 request to remove these lands made during the 10-year review of the Greenbelt Plan that took place in 2015-2017 and the consultant's study prepared in 2017 supporting that removal request. Her letter also states, "Our client is willing to provide compensation for the same size area of lands within the Whitebelt lands in Ontario."

[367] During his April 28, 2023 interview with me, Mr. Rehmatullah told me he does not know why Ms. Sliwa sent the removal request letter for the Flato Lands on September 27, 2022 at that particular time, and said he believed his lawyers identified the opportunity, explaining that they monitor municipal council meetings and ERO postings to "keep an eye on it."

[368] Mr. Rehmatullah told me that he did not communicate with anyone in the provincial government about Greenbelt removal requests. He said he did not recall when he learned the eight acres of the Flato Lands would be removed from the Greenbelt and that the matter was not a big deal to him. He noted the lands removed from the Greenbelt in 2022 on this site were only eight acres of a 102-acre property, of which the remaining 94 acres was already well into the development process, following an MZO made by the minister.

[369] In response to a request from me, Ms. Sliwa provided copies of her correspondence, and that of her associate Diana Betlej, with Mr. Amato.

[370] These records indicate that her associate Ms. Betlej sent Mr. Amato two emails after the initial request letter related to the Flato Lands. Ms. Betlej sent the first email on October 13, 2022, at 7:03 p.m., attaching the GIS shapefile and legal description for the lands on behalf of her client, Flato Developments Inc. and stating: "We understand that this information was requested by the Ministry."

[371] Ms. Betlej sent an almost identical email to Mr. Amato almost a week later, on October 19, 2022, at 11:26 a.m. The recipients and body of the email are the same as the earlier email, but the subject line was changed to specifically reference the Greenbelt Plan.

[372] Ms. Sliwa and Ms. Betlej produced no emails from Mr. Amato requesting shapefiles or legal descriptions and no reply emails from him acknowledging receipt of this information.

[373] In response to a request from me, Ms. Sliwa advised that she searched their records and confirmed with her associate that they have no records or recollection of any telephone calls from or to Mr. Amato.

[374] By way of written follow up question, Mr. Amato was advised that no request emails from him were located and that Ms. Betlej and Ms. Sliwa advised they have no record or recollection of any telephone calls with him, suggesting he was communicating with someone else about this property. Through his counsel, Mr. Amato advised that he does not believe he contacted Dentons, the developer or anyone else about this property and does not believe that he was asked to do so by the Greenbelt team.

[375] Given Mr. Rehmatullah's evidence that he believed his lawyers identified the opportunity to request lands removed from the Greenbelt, I asked Ms. Sliwa to advise how she identified the opportunity to write to Mr. Amato, noting that if the information was solicitor and client privileged, I trusted she would advise. She responded that "It is my recollection that we were advised by Mr. Shakir Rehmatullah to send the Flato Developments Inc. request to Mr. Amato. We subsequently filed the Orca Equity Ltd. and Wyview Group requests. We presumed that Mr. Amato would direct all requests to the correct persons reviewing the Greenbelt. We had been monitoring the province's Greenbelt communication and review since approximately 2015 on behalf of various clients."

[376] Mr. Rehmatullah advised he knew Mr. Amato. He said he met him when he had an issue with the Ministry of Transportation and Mr. Amato worked for the Minister of Transportation. He believes he has since met Mr. Amato at events but did not recall the details of these events.

[377] Mr. Rehmatullah advised he has met Minister Clark briefly at several fundraising events. He said Minister Clark also attended an announcement at one of his sites, organized by a local MPP. He did not have any significant conversations with him, but said he may have said to the

minister “cut the red tape,” explaining that is what he usually mentions to public office holders at events.

[378] Mr. Rehmatullah advised he has known Premier Ford for a long time, since before he became the premier. He described Premier Ford as a friend and acknowledged that he attended the stag and doe and wedding of one of Premier Ford’s daughters in the summer of 2022. He recalls that he saw or spoke to Premier Ford about 10 times in 2022. Other than the wedding, they have only shared meals at PC Party or community events. When asked about other indicators of friendship, Mr. Rehmatullah said it was a professional relationship.

[379] Mr. Amato and Ms. Jensen were both asked about one of their text exchanges from October 6, 2022 in which Ms. Jensen texted “What the fuck Shakir.” Mr. Amato responded “???” to which she responded “The thing from Flato in York is ALL greenbelt.” Then Mr. Amato responded “can we go back to that later”, and the exchange ended.

[380] Ms. Jensen advised she sent this message as she was reviewing an ERO submission about the York Region Official Plan and that “any person from the public can submit a request for consideration under the official plan for modification.” She advised that she is not on a first-name basis with Mr. Rehmatullah, but that she believes Mr. Amato knows him because “he is one of our stakeholders. Flato is a very large land developer in the Province of Ontario, to be honest.” When asked what this text exchange was about, she said she could not recall what the submission was, but that “one of the things he submitted from Flato was completely Greenbelt lands.” Because there is no authority in the official plans approval process to remove lands from the Greenbelt, this could not be dealt with through the official plans project.

[381] Mr. Amato advised that he met Mr. Rehmatullah virtually a few times when he worked for the Minister of Transportation. He said he had never talked to Mr. Rehmatullah about the Greenbelt. He said he was not aware if Mr. Rehmatullah was friendly with Premier Ford or not, or whether he was on a first-name basis with anyone in the Premier’s Office.

[382] With respect to the October 6, 2022 text exchange, Mr. Amato advised that he believed there was a site in Nobleton where Mr. Rehmatullah “wants to do some towns and villages

expansion, which is allowed up to five percent, I think is what it says in the Act. And I think he was trying to get more than what was allowed, and there is some servicing constraints in that area that were trying to be addressed through the provincial policy statement.” Mr. Amato said this exchange was about an official plan request, not the Greenbelt project because at this time he was the only one working on the Greenbelt project and Ms. Jensen had not yet been brought into it.

[383] Records produced by Minister Clark also contain a letter from Ms. Sliwa to Mr. Amato dated October 18, 2022, advising she is counsel to both Flato and the Wyview Group and is writing with respect to a property in the Township of King in Nobleton. In that letter, Ms. Sliwa requests changes to the Greenbelt Plan, specifically to permit the minister in his discretion to make decisions on allocation of growth and planning for water, wastewater and stormwater infrastructure, to permit similar ministerial discretion with respect to the extension of municipal or private communal sewage or water services and to delete a policy provision prohibiting the establishment of stormwater management systems in key natural heritage features, key hydrologic features and their associated vegetation protection zones.

[384] Typed notes taken by a ministry official at the October 21, 2022 Greenbelt meeting with Mr. Amato indicate that this request was discussed at that meeting. The note states “additional lands from Flato-Wyview – lands in Nobleton. Are already in [town/village]. What they want are policy changes re: servicing, not actual map change requests. Ryan: dealing with servicing stuff through OP. gave direction to deal with private servicing through policy.”

11861 and 12045 McCowan Road in the Town of Whitchurch-Stouffville – the Orca Property

[385] The amount of land removed from the Greenbelt in this larger area totals approximately 13 acres.

[386] Berardino Quinto is a principal and owner of Orca Equity Ltd¹⁸ and explained the ownership of these lands.

¹⁸ Mr. Quinto told me he owns 50% of Orca Equity Ltd.

[387] Very briefly, Mr. Quinto advised that TORCA II Inc., which is the registered title owner of the lands located at 12045 McCowan Road, is a joint venture in which Orca Equity Ltd. is involved. TORCA II Inc. has been the registered owner of this property since September 3, 2021. Similarly, 2743903 Ontario Ltd. is the registered owner of the land located at 11861 McCowan Road and Mr. Quinto is, through corporate holdings, one of the beneficial owners of that property too. 2743903 Ontario Ltd. has been the registered owner of this property since April 8, 2020.

[388] By letter dated September 29, 2022, Mr. Quinto's lawyer, Ms. Betlej, wrote to Mr. Amato and requested the portions of the Orca lands that are located within the Greenbelt at 11861 and 12045 McCowan Road be removed from the Greenbelt, stating the characteristics of the land do not warrant inclusion in the Greenbelt boundary. Ms. Betlej specifically noted these lands are in close proximity to the Flato Lands, referenced a study done with respect to the Flato Lands purportedly supporting their removal from the Greenbelt and advised a similar study of the McCowan Road lands had been commissioned and would be provided forthwith. Ms. Betlej also attached a copy of Ms. Sliwa's September 27, 2022 letter requesting removal of the Flato Lands and the supporting consultant's report for the Flato Lands.

[389] Mr. Quinto said he was aware that Ms. Betlej sent this request. He said he did not have any contact with anyone in the provincial government about it and he had never met Mr. Amato, Minister Clark and Premier Ford. He said he had not hired any lobbyists.

[390] Mr. Quinto also told me that he believes he first learned of an opportunity to have lands removed from the Greenbelt during a videoconference call with consultants a couple of weeks before his counsel at Dentons sent the request to Mr. Amato. When asked who these consultants were, he could not recall but gave an undertaking to review his records to identify consultants hired with respect to this property and provide a list.

[391] As set out above, Ms. Sliwa advised that she was initially asked by Mr. Rehmatullah to send the Flato Lands request and subsequently her colleague Ms. Betlej sent the Orca request.

[392] The records produced by both Ms. Sliwa and Minister Clark indicate Ms. Betlej sent Mr. Amato three further emails about the Orca property. On October 12, 2022 at 5:15 p.m., she

emailed that she was attaching a GIS shapefile and legal description, and that “We understand this information was requested by the Ministry.” On October 19, 2022, at 11:26 a.m., she sent Mr. Amato another email identical to her October 12, 2022 email. She sent the third email later that day at 3:41 p.m., which states: “Further to my email from earlier today, please see the attached. As per the attached, the lands requesting to be removed from the Greenbelt are outlined in purple, please note that by adjusting the Greenbelt and removing these lands the Greenbelt will stay contiguous. We understand that this information was requested by the Ministry.” She attached a map, which indeed has areas marked in purple.

[393] There are no emails from Mr. Amato to Ms. Betlej in the records produced.

[394] Again, by way of written follow up question, Mr. Amato was advised of the evidence that we had located no record of any email from him to Dentons requesting shapefiles and that the lawyers had no record or recollection of any telephone calls from him, suggesting he was communicating with someone else about this property. Again, through his counsel, he advised he does not believe he contacted Dentons, the developer or anyone else to seek information about this property and does not believe that he was asked to do so by the Greenbelt team.

[395] Mr. Rehmatullah advised during his first interview that he has had dealings with Orca Equity Ltd. and that they are part of a larger landowners group in the area. He said it was possible that he could have mentioned to someone at Orca that he was making a Greenbelt removal request.

[396] In his interview during this inquiry, Mr. Quinto advised me that he does not have any formal or informal agreements with Mr. Rehmatullah, other than both being part of a landowners group that has a cost-sharing agreement for planning studies required for development. Mr. Quinto said Mr. Rehmatullah had not given him any assistance other than advice about which planning consultant to retain to do work for him in York Region. He said he had no discussions with Mr. Rehmatullah about the possibility of removing lands from the Greenbelt.

[397] Mr. Quinto said he personally had no contact with anyone in the provincial government about this removal request. His understanding is that the Dentons lawyers handled all

communication with the government. He does not recall being asked for any information about the site, for example a shapefile, and he does not recall being asked about refining the removal request to preserve a connection between Willowdale Creek and the Oak Ridges Moraine.

[398] Mr. Quinto said he could not recall when he learned that part of his lands were to be removed from the Greenbelt.

[399] Pursuant to the undertaking given at his interview, Mr. Quinto provided a list with the names of seven planning consultants with whom he has interacted. My staff were able to locate current contact information for four of the planners and I requested information from each of them in writing. I received a response that one of them was on an extended personal leave. Two of them responded that they first learned of the opportunity for Greenbelt land removals on November 4, 2022, when the lands were posted for consultation.

[400] The remaining consultant that I was able to reach was Emma West from Bousfields,¹⁹ who responded that “In September 2022, I was asked by a client to prepare a drawing outlining areas which that client sought to be removed from the Greenbelt Plan. I was later told that the drawing was included in a request that was made to the Ministry of Municipal Affairs and Housing to remove the lands from the Greenbelt Plan area. I also understood that a request was made at that same time for the removal of the lands that had been part of the earlier request in 2017.”

[401] In response to a further request from me, Ms. West confirmed that this client was Shakir Rehmatullah from Flato Developments Inc., she believes the underlying landowners for the lands included in the map were TORCA I Inc., TORCA II Inc., and 2743903 Ontario Inc. and Wyview Group, and that the date she was first contacted about preparing the drawing was September 27, 2022.

[402] I asked Mr. Rehmatullah to appear for a second interview, at which time he was given an opportunity to respond to the evidence gathered from other witnesses. Mr. Rehmatullah told me repeatedly that he believes it is just the “normal course of business to ask consultants to keep

¹⁹ Ms. West expressed to me that to ensure that she met her professional obligations, she required a summons and I was pleased to provide her with one.

submitting on our behalf” and that the 2022 request was simply following up on the 2015-2017 request. He had no explanation for why, five years after his last request, he was making a request in September 2022. He denied that anyone connected to government let him know the government was considering changes to the Greenbelt boundary.

[403] Mr. Rehmatullah told me that he had made a freedom of information request to obtain the materials submitted by landowners who made successful applications in 2015-2017 so that he and his counsel could use them to make “a stronger case” for removal of his property, that this freedom of information request was still in progress and while there had been some recent progress, they had yet to receive the information they were seeking to assist them in making a new request. His explanation fails to address why he would instruct his solicitors to make the removal requests before he received the freedom of information response. It suggests that he was aware that Greenbelt removals were being considered.

[404] Mr. Rehmatullah acknowledged he likely did suggest that Ms. Sliwa contact Mr. Amato because he had prior contact with Mr. Amato and this “makes sense” because when he knows a contact, he will go back to that contact, copy others, and “hope somebody will guide you in the right direction.”

[405] With respect to the evidence from Ms. West, that Mr. Rehmatullah requested a map from her on September 27, 2022 to support the removal of the Orca lands from the Greenbelt, Mr. Rehmatullah said that he has been working together with Orca and Wyview and others in a landowners group. He said “do I get involved with all three? Do I assist? I do.”

[406] Mr. Rehmatullah denied being in contact with Mr. Amato about requests for shapefiles and revising the boundary of a proposed removal to keep the Greenbelt contiguous.

Highway 48 and Ninth Line, City of Markham – the Wyview Property

[407] Approximately 89 acres was removed from the Greenbelt at this site.

[408] Land registry documents indicate these properties were purchased by numbered companies on March 12, October 19 and December 12, 2021 and that a director of each of these companies is Weixiang Wang, who is the chairman of the Wyview Group.

[409] After being advised by their counsel that they did not speak English with sufficient fluency to respond to questions during a telephone interview, I requested information in writing from both Mr. Wang and Lily Yang, the president of the Wyview Group. Mr. Wang and Ms. Yang advised that they became aware that the government was considering removing land from the Greenbelt through social media and news reports. They said they did not have any contact with anyone in the provincial government related to the removal of portions of McCowan Road properties from the Greenbelt, nor did their employees, nor did they retain any lobbyists or consultants to contact the provincial government. Mr. Wang advised that he met Premier Ford once at a ribbon-cutting ceremony in Stouffville, Ontario, in September 2022, but has not knowingly communicated with Minister Clark, Mr. Amato or Ms. Jensen.

[410] As referenced above in the sections about how the Flato and Orca properties came to the attention of Mr. Amato, the lawyer for Flato and Orca also wrote to Mr. Amato at a later date to request the removal of the Wyview property.

[411] The records produced by Ms. Sliwa and Minister Clark contain a letter dated October 7, 2022 from Ms. Betlej to Mr. Amato with the subject line: "Wyview Group ("Wyview"), 10541 Highway 48, 10378 Highway 48, 10235 Highway 48, and Ninth Line, City of Markham, Request for Greenbelt Plan (2017) Boundary Adjustment." This letter does not reference the earlier Flato and Orca requests. Instead, it argues that the initial Greenbelt mapping was completed without detailed review or analysis of individual parcels of land and had an impact on large swaths of land in "an overly punitive manner" without opportunity for review. It states that a review of aerial photography and "a brief review of the mapping from the Toronto Region Conservation Authority" identified "potential areas" that "may warrant removal from the Greenbelt designations." It attaches a map dated October 6, 2022, prepared by Groundswell Urban Planners Inc. highlighting these "potential areas" in orange. The letter does not identify who performed this review or suggest that any expert has been retained to perform a review. The letter states

the client is willing “to provide compensation for the same size area of lands in the Whitebelt lands in Ontario.”

[412] Ms. Betlej’s October 7, 2022 letter to Mr. Amato continues for several more paragraphs, largely making the case for further study of these lands. She restates that the lands were not “reviewed in detail” when the Greenbelt mapping was originally completed, that detailed study of natural features on a site-by-site basis would ensure they are protected “while unaffected lands can be better utilized outside of the protections of the Greenbelt plan,” that removal of a portion of these lands “could” support more complete communities, and that “future higher-order infrastructure planning in this area requires more detailed and expeditious review of these lands for environmental features.”

[413] Ms. Sliwa also provided copies of three subsequent emails from Ms. Betlej to Mr. Amato related to this property. In the first, sent October 12, 2022, she attaches a GIS shapefile and provides a legal description, stating “We understand that this information was requested by the Ministry.” Her second email, sent October 19, 2022, at 11:17 a.m., is identical to the first. Her third email, sent later that day at 3:51 p.m., states: “Further to my email of earlier today, please see the attached. As per the attached, the lands requesting to be removed from the Greenbelt are outlined in orange, please note that by adjusting the Greenbelt and removing these lands the Greenbelt will stay contiguous. We understand that this information was requested by the Ministry.”

[414] Again, no email from Mr. Amato to Ms. Betlej requesting such information was located during this inquiry and the Dentons lawyers have no records or recollection of any calls with him, suggesting Mr. Amato was in contact with someone else about this property. Given an opportunity to respond to this evidence by way of written follow up question and asked if he recalled with whom he was communicating about this property to obtain shapefiles and/or other information, Mr. Amato again advised through his counsel that he “does not believe he contacted Dentons, the developer or anyone else to seek information about this property.”

[415] A review of the documents produced by ministry officials indicates that this property first appears on the tables prepared for meetings with Mr. Amato on the document prepared for the October 19, 2022 meeting. It is described on the table as the “Flato-Wyview” property from then through November 1, 2022.

[416] Mr. Wang and Ms. Yang advised that they have not had any dealings with Mr. Rehmatullah related specifically to the McCowan Road properties that were the subject of the Greenbelt request but described to me other land dealings certain of Mr. Wang’s companies have had with certain of Mr. Rehmatullah’s companies in the last few years in the Markham Stouffville area.

[417] As set out above, Mr. Rehmatullah advised during his interview that he has had dealings with Wyview and that they are part of a larger landowners group in the area. He initially said it was possible that he could have mentioned to someone at Wyview that he was making a Greenbelt removal request and that he may have assisted with such a removal request.

[418] When asked how this property came to his attention, Mr. Amato responded “Isn’t that one of the Dentons’ ones that was sent to me cold?” When asked how the Dentons lawyer would know to send him such a letter, Mr. Amato responded that he receives unsolicited requests “all the time.”

[419] It appears from the evidence that Mr. Rehmatullah had his hand in all three removal requests - Flato’s 10 acres, Orca’s 13 acres and the Wyview 89 acre parcel. He finally admitted in his second interview that he had instructed his solicitors to make the removal requests to Mr. Amato since he was a contact. He also acknowledged at his second interview, when confronted by the evidence of the consultant whom he retained to do mapping and the evidence of his own solicitors’ communications with Mr. Amato with respect to the Orca and Wyview properties, that he may have assisted them because they were part of the same landowners group.

[420] What he insisted on was that these requests were in “the normal course of business to ask consultants to keep submitting”. Given that there had been no Greenbelt removal submissions for five years since the conclusion of the 2015-2017 review and given the timing of

the current submissions while Mr. Amato was engaged in gathering properties for removal, I find that Mr. Rehmatullah's position strains credulity.

[421] Similarly his evidence that no one connected to government let him know that the government was considering changes to the Greenbelt boundary is questionable; but identifying who it might have been is more difficult. For some, the fact that he was the only developer who had lands removed from the Greenbelt who attended the premier's daughter's wedding is probably enough to point the finger at the premier. But this fanciful connection is not sufficient for me to leap to that conclusion. Mr. Rehmatullah has a number of contacts in and out of government who may have been aware of the government's potential change in policy relating to the Greenbelt. He had his solicitors address their correspondence to Mr. Amato with whom he had dealt in the past and regarded him as a contact. Or it may have been someone in the development community, bearing in mind that the correspondence and mapping occurred on these properties while there was what Mr. Van Loan referred to as a "buzz" in that community concerning the opening of the Greenbelt. On the evidence, I am unable to make a definitive finding as to what or who prompted Mr. Rehmatullah in the Fall of 2022 to take the steps he did to request that his small piece of land and the land of two of his fellow members of a landowners group be removed from the Greenbelt. But I find it is more likely than not that someone did.

[422] Mr. Rehmatullah made one astute comment at the conclusion of his second interview. He said he wished that any applications such as the ones he had made could be done online so that everyone could see what the criteria were for their applications and compare. In other words, an open, public and transparent process. It might have removed many of the suspicions that were created by the process driven by Mr. Amato.

Barton Street in Hamilton

[423] Approximately 10 acres of Greenbelt was removed in the Barton Street area of Hamilton.

[424] Through corporate holdings, the Barton Street property is owned in part by Sergio Manchia and in part by Anthony Di Cenzo. Mr. Manchia owns a development business, Urbancore Developments, and also worked in urban planning for around three decades through his business

Urban Solutions, until he retired from that line of work on July 1, 2023. Mr. Manchia told me that he is “passing the baton” at Urban Solutions to his colleague Matt Johnston.

[425] It is not in dispute that Mr. Manchia raised the Barton Street property in Hamilton with Mr. Amato.

[426] Mr. Amato advised that Mr. Manchia’s land was one of the first things brought to his attention and that he had a call with Mr. Manchia about it on July 25, 2022. Asked for his recollection of events on this date, Mr. Manchia advised he recalls a meeting with Mr. Amato and a group of people. He says that at that meeting, he discussed with Mr. Amato changes the province was making to development charges and the planning process, but does not recall handing Mr. Amato anything at this meeting or any further interaction.

[427] Ms. Jensen advised that since long before her time working for Minister Clark, Mr. Manchia has “continuously tried to get someone to help him with this piece of land in Hamilton.” She confirmed that she exchanged text messages with Mr. Amato on July 21, 2022, asking if his meeting on Saturday was about “the gb site Sergio’s property?” She said she understood at the time that Mr. Manchia “had called Ryan, being the new chief of staff, because he would just pick off every single chief of staff that worked literally for the minister at any point to make sure they were aware of his issue.” She believes Mr. Manchia spoke with her briefly about the property previously, when she became the Interim Chief of Staff in the spring of 2022.

[428] Ms. Jensen and Mr. Amato were both asked about another text exchange they had on August 1, 2022, which says:

KJ: It’s the same timeline I’ve been saying all along if we do all the OPs in October right after the election

RA: Okay

RA: Cool

KJ: Otherwise we have to do an entire review of the Greenbelt plan

KJ: And we definitely don’t want to do that

RA: The premier needs to stop calling this guy

KJ: Yeah. Plus annoyingly Sergio is a planner...but he needs to cool it because he knows this stuff

[429] Ms. Jensen told me that her comments about not wanting to do an entire review of the Greenbelt plan were made when “at that time, I still was not sure that we were going ahead with what was in the mandate letter. I thought we were still on the growing the Greenbelt path to be honest. And what he was looking for this property was a redesignation of a parcel in Hamilton, and at that point, basically, like, you can’t just open up the Greenbelt Plan any time. Like that is not how the Greenbelt Plan or the Greenbelt Act works. So, if you’re going to do anything or consider anything, you have to open up the entirety of the Act. And at that point in time, I had no idea that was even on the table.” Asked if that was what, essentially, they were doing later in the fall of 2022, she said yes.

[430] Asked about Mr. Amato’s message, “the premier needs to stop calling this guy,” she explained:

So the premier is very open that, if people want to get ahold of him, he is an open, like he gives his phone number out all the time. He is open to people calling him, telling him about his issues. And this man, like I said, has been calling our Ministry, the Premier’s Office, multiple people for years and years about this issue that he has had. And my understanding is that he has called the premier before and the premier calls people back when he gets phone calls. That is just the way he operates. He is very open like that.

[431] Mr. Amato said that, at the time of that text exchange, he was under the impression that “we would be able to do it through the official plans, and that was the path forward for this property.” He advised that he did not meet face-to-face with Mr. Manchia on a Saturday as the text messages suggest, but that he had a call with him on Monday, July 25, 2022. He further advised that Mr. Manchia made several submissions through the official plan process but that not all were Greenbelt properties.

[432] Asked about his August 1, 2022 text message “the premier needs to stop calling this guy,” specifically who is “this guy,” Mr. Amato responded: “Well, I think the text is inaccurate in itself, but I believe I was referring to Sergio.” Asked what was inaccurate, Mr. Amato advised that “It

should be the other way around, Sergio is very persistent, and he knows how to call people and the Premier has been very public with putting his number out on TV and in press conferences and Sergio, to my understanding, will call the Premier from time to time.” However, Mr. Amato also told me he did not know if there were phone calls between the premier and Mr. Manchia at the time and he didn’t know why he wrote this message. He said he did not speak to Minister Clark or anyone in the Premier’s Office about Premier Ford needing to stop calling Mr. Manchia.

[433] Mr. Manchia confirmed he has been advocating for development of the Barton Street property for 20 years and that he considers it a mistake that this land remained in the Greenbelt prior to the 2022 removal. If he had an opportunity at an event, he would bring it up with public office holders and political staff, telling me: “I don’t remember specific dates but anytime I can bring up this awkward scenario I would.”

[434] Mr. Manchia advised he has met Mr. Amato a handful of times since he took on the role as Minister Clark’s chief of staff and that he did not know him previously. He and Mr. Amato both told me that they saw each other while attending a personal event in the late summer or fall of 2022 and exchanged pleasantries but did not discuss the property at that event.

[435] Asked about telephone calls with Mr. Amato, Mr. Manchia advised that he remembered a conference telephone call about his Greenbelt removal request with Mr. Amato and Mr. Manchia’s colleague Mr. Johnston, who he had retained as his planner for this project. Mr. Manchia said he believes there was also a woman on the call, whom he understood worked for the government. He believes it was Ms. Jensen, whom he knows professionally from her work in the area before she joined the Minister’s staff, but is not “100% certain it was her.” He did not recall the date of the call but said his “gut” was that it was after the land was posted for consultation for removal on November 4, 2022. He was asked to search his text messages, emails and calendar records to try to identify the date of this or any other call with Mr. Amato and he reported that he has no such records. I find that the date could not possibly have been after November 4 and this call likely occurred in September or early October 2022, as this property had been added to the ministry’s table by October 13, 2022 and, as detailed below, shapefiles had been provided by Mr. Johnston in late October.

[436] Mr. Manchia recalls that during this call Mr. Amato was asking questions about the removal request. They talked about the history of the property, existing services, infrastructure, and the particular uses he envisioned for the site, which was low-rise medium density housing. He did not recall being asked about affordability.

[437] Asked what Mr. Amato said during this call, Mr. Manchia said “very little.” He said he may have asked about whether studies had been done for the property, “for example the work related to the subdivision next door was completed in association with this place: stormwater, capacity, water pressure, road improvements.” Mr. Manchia said he understood Mr. Amato was “trying to facilitate questions other ministry staff, be it the planners or administrators below him, were working on.”

[438] Asked if he remembered such a call with Mr. Amato and Mr. Manchia, Mr. Johnston advised he recalled a telephone call “along those lines” and that Mr. Manchia was “great at telling the merits and history of that file” and also referred to Mr. Manchia as “selling the merits” of the removal from the Greenbelt. Unlike Mr. Manchia, Mr. Johnston did not recall any woman from the ministry being on the call, just Mr. Amato. Ms. Jensen did not recall participating in this call.

[439] Mr. Manchia said he did not recall any further calls with Mr. Amato. He did not recall receiving a call to let him know the property would be coming out of the Greenbelt, but he said “I do recall we were anticipating an announcement.” He believes he learned from Mr. Johnston or someone else working at Urban Solutions that the lands would be removed, but said he does not remember anything about when or how he learned this.

[440] Mr. Johnston told me he is sure he spoke to Mr. Amato by telephone on a number of occasions in 2022. In addition to the call described by Mr. Manchia, Mr. Johnston said “there were points where we likely had quick conversations on the content of some of our submissions,” specifying the submissions were about Barton Street and another property on Cline Road in Grimsby, owned by another client, Lucy Faiella, for whom Mr. Johnston was also requesting a removal. He said he reached out to both Mr. Amato and Ms. Jensen because “I was looking to make sure I understood the scope of the ERO and ensuring the content [of the submission] was

going to achieve what we were hoping for. It was just for little touchpoints, this general thought process and format for submissions, looking to see if hitting the mark.” He said, “I recall asking [Mr. Amato] how much information is too much information? is this the time for something short and concise or more thorough?” and he got “advice to include as much as we could to support the merit of the removal.”

[441] Mr. Johnston said he also reached out directly to Ms. Jensen for feedback on the ERO submissions for these properties. He said she was his “go-to” contact, as he knew her professionally from her prior work in his area for the West End Home Builders’ Association. He had met Mr. Amato only a few times in passing at PC party events in the last few years, and possibly at an industry event several years prior. He said he spoke to Ms. Jensen shortly after the ERO posting about the Hamilton Official Plan went up on September 8, 2022, about the proposed content and structure of the submissions and what to include. He said her feedback was “pretty minimal, like ‘yes, sounds great’ and just encouraging us to pursue the submission on that basis.” He said the submission he described was much “like the meat” of the letter that went out. Asked if he discussed with Ms. Jensen that the submission would be making a pitch for Greenbelt removal, he said “I’m sure we did.” He said that Ms. Jensen made clear that the submission had to speak to the Hamilton Official Plan and “that’s why our final recommendations are worded the way they are.” He said she did not offer any comment as to whether the Greenbelt could or could not be done through the official plans process. Mr. Johnston said he called Ms. Jensen a second time to ensure that the ERO submissions had been received and she said yes.

[442] Ms. Jensen confirmed that she spoke by telephone with Mr. Johnston several times during the fall of 2022. She recalled that Mr. Johnston had made several ERO submissions for the Halton and Hamilton Official Plans and that he walked her through the merits of these submissions. She could not recall the details or the addresses related to these submissions. Asked if she recalled discussing Mr. Manchia’s property with Mr. Johnston, she said “I do not, no.” When advised of Mr. Johnston’s recollections of their telephone calls, she said “I’m going to apologize, I have done eight official plans since then. I’m working on another six. I do not remember specifics [of submissions or conversations].” She later clarified that she remembered a conversation with Mr.

Johnston about how to structure an ERO submission, about what it looks like, “but not here’s how to write paragraphs. I never go over that with stakeholders. They are looking for how many pages, what supplementary information they have ... I do not recall having any conversation with him saying this site is in the Greenbelt, put it through the official plan.” She said she had no knowledge of Mr. Amato taking calls with Mr. Johnston or Mr. Manchia on his own.

[443] When asked directly, Ms. Jensen and Mr. Johnston also both recalled that she reached out to him for shapefiles for the properties to be removed from the Greenbelt and he provided them. During his interview, Mr. Johnston was under the impression that this occurred sometime in late November or December, but after checking his records, he confirmed this occurred around October 19 - 20, 2022.

[444] Mr. Johnston said that he made several ERO submissions for different clients relating to official plans. He said that he “was asked to a meeting” at 777 Bay Street, Toronto, with Ms. Jensen and Mr. Amato “to review the merits of the submissions and the details of the asks.” Upon reviewing his records, he advised this meeting took place on October 31, 2022. He said that in addition to himself and the two minister’s staff, Peter Van Loan also attended. He understood that Mr. Van Loan had made submissions on behalf of his clients. At the meeting, he said “we were presented with the changes the minister was considering making to the Hamilton Official Plan and asked to verify our comfort level with them.” He said the changes didn’t relate to the Barton Street or Cline Road properties, but to other clients’ properties. Mr. Johnston said he confirmed that he was satisfied with the changes and then he left. When asked if he raised with them the Barton Street property, he said “I did and it was really confirmation given that the policy framework at play, the request cannot be granted.” Asked why not, he said “because of the Greenbelt designation.” Asked what was said about this, he said “it was short and sweet. Any official plan change must conform with the Greenbelt Plan and ours did not.”

[445] Ms. Jensen said she recalled this meeting. She believed that because there were eight to 10 submissions to review with Mr. Johnston, it was easier to do them in person. She agreed with Mr. Johnston’s recollection that he was asked to verify his comfort level with the minister’s proposed changes. She explained that as she reviews official plans and requests with ministry

officials, they “figure out modifications and a lot of times it comes down to wordy policy language. It’s not uncommon to go through that language with stakeholders to make sure the language written is appropriate to accommodate what submissions they are asking for so they have an idea.” She advised that ministry officials do not attend these meetings because “they don’t meet with stakeholders typically, to be honest.”

[446] Mr. Johnston confirmed that, as a planner, he understood that the official plans process does not provide authority to remove land from the Greenbelt. When asked if he talked to his clients Mr. Manchia and Mr. DiCenzo about this, he said “I would think yes, we talked about the strategy for the submission and what moving parts were discussed.” He clarified their strategy was to identify all the policy changes that would be required.

[447] Mr. Manchia advised that he has organized and hosted fundraisers for the PC Party for 30 years and that he has also done things to support the other main political parties in Ontario, the New Democratic Party and the Liberals.

[448] Mr. Manchia advises that he has met Premier Ford about six times in his lifetime. Asked about all of his contacts with Premier Ford in 2022, whether in person or by phone, Mr. Manchia said “maybe two to three times.” Asked about the circumstances, Mr. Manchia advised he saw the premier at functions. Asked about what functions, he said he attended an annual PC party event with hundreds of attendees and a large PC Party event in Mississauga, Ontario, to celebrate the 2022 election victory. Mr. Manchia hosted a fundraiser with about two dozen attendees for Neil Lumsden, now Minister of Tourism, Culture and Sport, then a PC candidate, prior to the 2022 election. He said Premier Ford did not attend this fundraiser but “phoned in” to speak to attendees. He advised that in September 2021, he hosted a fundraiser for PC MPP Donna Skelly at his home, with approximately 50-70 people in attendance and Premier Ford “dropped in” in person.

[449] Mr. Manchia said he does not believe he talked to Premier Ford about the Greenbelt at these events, and that it was usually a handshake and hello.

[450] Asked if he had any personal phone calls with the Premier in 2022, Mr. Manchia said “I don’t remember a call, don’t recall that, no.” Asked if he had any phone calls with Premier Ford at any other time, outside of 2022, Mr. Manchia advised said “not that I recall, no.”

[451] Mr. Manchia advised that he purchased four tickets to the August 2022 stag and doe held for Premier Ford’s daughter and her fiancé. He could not attend so he gave them to Mr. Johnston, and three other people.

[452] Mr. Manchia advised he has met Minister Clark a few times at functions, most recently at a Toronto Board of Trade event on October 25, 2022.

[453] Mr. Johnston confirmed he attended the August 2022 stag and doe for Premier Ford’s daughter and her fiancé, with a ticket provided by Mr. Manchia. He said that he briefly met Premier Ford at that event, for a handshake and quick hello, but had no other conversation with him. He said that is the only time he has met the premier. He has never met Minister Clark. Mr. Johnston confirmed he makes political donations from time to time and may attend political fundraisers but he does not organize fundraisers or engage in campaigning.

[454] Asked whether he knew Mr. Manchia and about any communications with him, Premier Ford advised that he “meets literally thousands of people” and it is impossible to keep track of them all. He said he was not immediately familiar with Mr. Manchia but it is possible he has met him. He said he had no recollection of meeting him, having any telephone or other conversations with him about the Greenbelt, or communicating to any staff about Mr. Manchia.

Cline Road in Grimsby

[455] The area removed from the Greenbelt near Cline Road in the Grimsby area is approximately 78 acres.

[456] Mr. Johnston is also the planner for the Cline Road property, which is owned by Elda and Lucy Faiella.

[457] On October 6, 2022, Mr. Johnston submitted a request for removal from the Greenbelt for this property through the ERO consultation process for the Niagara Region Official Plan. He advised he did this because he was making a similar request for the Barton Street property. There has been no evidence gathered to suggest his clients were in touch with anyone in government about this request.

775 Kingston Road East, Ajax

[458] Despite contacting and obtaining evidence from several witnesses about this property, it remains a mystery to me how this 133-acre site came to the attention of Mr. Amato.

[459] Mr. Amato told me he has no recollection of how it came to his attention.

[460] Deputy Minister Manson-Smith advised that her staff were made aware of this site by Mr. Amato on approximately October 24, 2022. The typed meeting notes made by one official on this date record state “775 kingston – squared off to 401/lakeridge rd. Ryan – let’s incorporate it, waiting on USB today.”

[461] Through the land registry, my staff confirmed the property is owned by a numbered company, 2615898 Ontario Ltd. My staff spoke with one of the directors of this company, Michael Lam, who advised it is owned by its other director, Yuchen Lu, a resident of China. Mr. Lam said he agreed to be named as a director at the request of his employer, an accounting firm that does work for Mr. Lu. Mr. Lam says he does not know how this property came to be removed from the Greenbelt.

[462] Mr. Lu responded to written questions from me. He confirmed he is an overseas investor and that “what we do is landbanking.” He advised that he did not contact anyone in the provincial government related to the removal of this land from the Greenbelt and is not aware of anyone acting on his behalf doing so or communicating with Mr. Amato, Ms. Jensen, Minister Clark or Premier Ford in particular. He said he did not hire any lobbyists, consultants or employees to assist him with any request to remove lands from the Greenbelt or to seek a redesignation of the

lands within the Greenbelt. He said he had no lobbyists working for him in 2022. He says “[f]or our case we learned removing lands from the greenbelt from news.”

[463] Mr. Lam said he occasionally receives offers to purchase the property and passes those requests on to Mr. Lu’s real estate agent, John Dong.

[464] Mr. Lam recalls that in October 2022, someone came to his place of work and invited him to attend a meeting at Casino Ajax. Mr. Lam contacted Mr. Dong the same day and located his email to Mr. Dong, indicating the meeting was held on or about October 24, 2022. Mr. Lam also sent me a copy of a handwritten note that this person left and provided to him. This note states “Michael, We have a meeting today at Casino Ajax (I own it) about all of our lands in the greenbelt at Hwy #2 in Ajax (1000 acres). We are meeting at 2pm with Fieldgate Homes and Paradise Homes as they have a papered offer for us all. Call me at [telephone number] – [name omitted]. Meeting address: 50 Alexanders Crossing, Ajax ON. All landowners of the 1000 acres will be there. Your owners land of 100 acres (stroud) is not included in the 1000 so we hope you will attend just to talk.”

[465] Mr. Dong says he recalls Mr. Lam notifying him about this meeting and attending this meeting at the casino. He said there were about 10 people there, whom he believes were the builders seeking to purchase land, and several landowners. He did not recall the price offered for the land but it was so low he left without speaking to anyone, as it was not of interest. He said he too does not know how the land came to be removed from the Greenbelt in 2022 and does not know anyone in the government.

[466] Mr. Dong explained Mr. Lu had instructed him to put the land on the market in early 2022 to test the price, after receiving a number of unsolicited offers in 2021. He said they had received an offer but that Mr. Lu had declined it, noting Mr. Lu had only purchased the land in 2018, was a landbanker, and, while they had received a “good offer today,” there might be a “better offer tomorrow.”

[467] Mr. Eisenberger (President, Fieldgate Homes) told me that he was invited to this meeting at the casino by Steven Weisz of Paradise Homes. He attended because Mr. Weisz asked him to

attend and they have done many deals together. He said he was there to support Mr. Weisz. He said that Mr. Weisz had put together a presentation to the landowners offering an option on their lands and they were generally interested in a long-term hold. He just listened. He recalls the landowners were frustrated the lands were included in the Greenbelt. He said if the lands came out of the Greenbelt, he was interested in doing a transaction with Mr. Weisz. However, he believes nothing came of it from his perspective and he simply attended the meeting.

[468] I note that Mr. Lam also provided me with a February 3, 2022 email from an agent enclosing an offer from his client in response to the public sale offering Mr. Dong described. Interestingly, the agent's cover email estimates that it would take 10 months to have these lands removed from the Greenbelt:

The property is within the Provincial Greenbelt, it is designated as "Rural" in the Town of Ajax Official Plan and is zoned "Permanent Countryside". The entitlement risk on this site is greater than most in the Province of Ontario, and to make these lands developable a process of removing the policy restrictions must be undertaken. We have thoroughly researched the process with industry leading consultants and have determined that an appropriate timing to complete this work would be 10 months. During this 10 month period [the client], at our sole expense, through our consultants and personal contacts will work with various levels of government to navigate the process. In addition to the political side of this proposal we will undertake geotechnical and environmental field testing and reporting and prepare a legal topographical and boundary survey which includes the conservation authority's endorsed development limits and establishment of net developable area.

The costs of this due diligence will be approximately \$200,000 with a risk that the Province does not permit the site to be removed from the Greenbelt. The due diligence cost is a risk that [the client] is prepared to tackle. What this means for the vendor is that they have the most qualified team working to ensure the site is deemed developable.

[469] As the timing proposed by the agent was almost exactly aligned with the Greenbelt removals project, my staff contacted him. The agent said that his client provided him with this information and he did not know how that estimate was reached or the identity of the "leading consultants."

[470] By way of written follow up question, Mr. Amato was advised of the information received from ministry about this property being brought to their attention by him on October 24, 2022 and of the note of the same date indicating he was waiting for a USB key. He was asked with

whom he was communicating to receive shapefiles and/or other information. Through his counsel, Mr. Amato advised he “does not recall contacting anyone to seek information about this property and does not believe that he was asked to do so by the Greenbelt project team.”

[471] In the interests of completing this inquiry, which is focused on Minister Clark, in a timely way, I have not pursued this line of evidence further.

Winston Road in Grimsby

[472] At this site, approximately 15 acres of land was not removed from the Greenbelt but redesignated as “town/village” within the Greenbelt. Lands with this classification within the Greenbelt may be developed, provided other required planning steps are taken.

[473] This property is owned by 502 Winston Rd. Inc. One of the company’s directors is Jeff Paikin.

[474] When my staff initially interviewed Mr. Paikin, he said he had not contacted the province about this property. He explained efforts being made with the assistance of a consultant planner at the local and regional level to have the specialty crop designation removed, as a prelude to eventually being able to develop the lands. He said he had “pushed all the buttons at the town and regional level” but with respect to the province said, “I wouldn’t know where to push.” He said he had no idea his land was going to be removed from the Greenbelt and found out about it when various people emailed him about it after the public announcement. Mr. Paikin noted that before he purchased the land, the Town of Grimsby had requested that the province remove it from the Greenbelt and cited various reasons why it made sense to do so. He questioned if the province had located the past municipal request and acted upon it.

[475] My staff interviewed Mr. Paikin’s planner who confirmed the efforts being made at the local and regional level. He said while that work was in progress, they got “a surprise notification it was redesignated.” He said he was not aware of any opportunity for a private land owner to apply to the province for redesignation or removal from the Greenbelt. He too questioned if the

government was acting on the request made by the municipality to remove this land from the Greenbelt during the ten year review in 2015-2017.

[476] Mr. Amato said that he believes he became aware of this property through his work on the official plans project.

[477] On the ERO site, under the consultation with respect to the Niagara Region Official Plan, my staff located a copy of an October 7, 2022 letter to Minister Clark signed by Mr. Paikin. This letter requests redesignation of the lands from “Unique Agricultural Area” to “Rural Area” on Schedule B of the Region of Niagara Official Plan. It also stated “Ultimately, we also support the removal of the lands from the Protected Country Side and Tender Fruit and Grape Lands designation in the Greenbelt Plan.”

[478] My staff then brought this letter to Mr. Paikin’s attention and asked to speak to him again. He told them that he had not previously seen this letter but, upon making inquiries with his staff, learned that one of them had written this letter and affixed his digital signature to it without his knowledge. He said that his employee told him she had chanced to meet a municipal official around that time, early October 2022, who, upon hearing she was frustrated with the barriers to development on this site, suggested she make such a request to the province.

[479] I found it odd that an application would be made to Minister Clark requesting a redesignation of this land by a staff member who affixed Mr. Paikin’s signature to the letter without telling him about it. But I suppose I should not be surprised by the lack of formality with this request which is consistent with everything that was wrong about the process followed in the entire matter which is the subject of this inquiry.

[480] My staff suggested to Mr. Paikin that there are some similarities between the Winston Road request letter and request letters submitted by Mr. Johnston of Urban Solutions. Mr. Paikin advised that he is aware that his employee has worked with Urban Solutions for several years and, upon joining his company, asked to bring Urban Solutions into their projects, which he agreed to do. Mr. Paikin said it was possible his employee had talked to Urban Solutions about their ERO submissions, but he would not know. He noted that he had since hired Mr. Johnston

to work on developing the Winston Road site, but that Mr. Johnston had not been hired to work on it at that time.

[481] Mr. Paikin also told my staff that “Hamilton is the biggest small town in Ontario.” He said he has known Sergio Manchia professionally for many years and Mr. Johnston for several years. He said he works out three times a week with Paul Paletta of Penta Properties. When advised that Mr. Paletta said that he learned he had land coming out of the Greenbelt while he was golfing with Mr. Paikin, Mr. Paikin said that may well have been.

Other Lands Considered but Not Removed or Redesignated

[482] Seven properties were considered for removal but were not included in the final cabinet submission. Two of these are properties held by Penta and are summarized above, beginning at paragraph 336. Summaries of the remaining five are below.

Tribute

[483] A 275-acre area²⁰ in Northeast Pickering was briefly considered by the Greenbelt team around October 31 to November 1, 2022, but it was not put forward for removal or redesignation. It was identified on the ministry’s meeting table as the “Tribute Homes” property.

[484] During his interview, Mr. Amato told me that he did not know how this property came to his attention.

[485] In the records produced by ministry officials, there were text messages sent by Mr. Amato on November 1, 2022, to Ms. Manson-Smith’s executive assistant containing information about the Tribute property, including servicing options and past municipal support. These text messages appear to be forwarded by Mr. Amato from an original sender because they reference work done by the proponent. For example, one states “[a]ttached is the Preliminary Master Servicing Report we completed for the whitebelt lands in Northeast Pickering as well as marked

²⁰ This is the area referred to in ministry documents. Tribute’s Steve Deveaux advised that Tribute’s holdings in the area are approximately 460 acres and that approximately 170 acres of those holdings are in the Greenbelt.

up Figures 3.2 and 2.3 to show that the entire Tribute lands identified on the attached Tribute Key Map can be serviced through extension of services from Northeast Pickering...”

[486] Both sets of typed meeting notes made by the ministry officials for an October 31, 2022 meeting with Mr. Amato indicate that a new USB stick with information about a new property had been provided that day. A version of the ministry’s table marked “MO direction provided thru Nov 1st” includes this site and records “MO DIRECTION – do not proceed.” The typed notes of one of the ministry officials for the November 1, 2022 meeting with Mr. Amato state: “Tribute Homes – 275 acres of property; not part of Durham’s OP for future urban; 100 percent NHS; Iroquois shoreline; no servicing (individual? private?); flagged Carruther’s Creek headwaters; will erode the criteria – direction not to proceed – from Ryan.”

[487] I asked Steve Deveaux, Vice President of Land Development at Tribute Communities, to attend at my office for an interview. He told me that he provided information about this site, on a USB stick, to Mr. Amato at a Toronto Region Board of Trade event in October 2022 where Minister Clark spoke. The website of the Toronto Region Board of Trade indicates that Minister Clark and Premier Ford spoke at a luncheon event from 12 to 2 p.m., billed as a “special announcement” and titled “Tackling Ontario’s Housing Supply Crisis.”²¹

[488] Mr. Deveaux said he had met Mr. Amato previously at a couple of industry events. Mr. Deveaux believes he said to Mr. Amato words to the effect of: “Hi. I’m Steve Deveaux from Tribute. I’m working hard in Durham to get lands into the urban boundary. I think I’m having some success and just wanted to put this on the government’s radar for future consideration.” He handed Mr. Amato the USB stick, which he told me contained a map indicating the area he wanted to get into the Pickering urban boundary and “a PIN description to pinpoint it.” He recalls Mr. Amato saying something in response like “Great. Thank you very much.” He said he did not mention anything about the Greenbelt to Mr. Amato at this time and that it was a short conversation. Asked why he gave Mr. Amato the USB stick at this time, Mr. Deveaux said he wanted to put this site on the province’s radar. He said he had been working since about 2011 to

²¹ See Toronto Region Board of Trade website Home > Events > Tackling Ontario’s Housing Supply Crisis, online at: <https://bot.com/Events/tackling-ontarios-housing-supply-crisis>

bring it within the urban boundary in Durham Region. He anticipated that in the future this land may be part of the official plans process and he said it was an important project for Tribute.

[489] Mr. Deveaux told me he did not follow up with or talk to Mr. Amato after this event. He said he was not aware until the public announcement on November 4, 2022 that the government was considering removing lands from the Greenbelt. He then arranged for an ERO submission to be made requesting the removal of these lands in response to the ministry's November 4, 2022 consultation with respect to the removal of the other lands. This ERO submission was made in December, 2022. Mr. Deveaux confirmed that he hired a lobbyist, Amir Remtulla, and asked him to register in early 2023 in anticipation of potentially having conversations with government about this ERO submission but said "nothing ever came of it."

[490] Mr. Deveaux said Tribute is part of a landowners group in the area, including Fieldgate Homes and other developers. He said he has never dealt with Jack Eisenberger and cannot recall the name of the individual who represents Fieldgate at the landowners group.

[491] At the time of his interview, Mr. Deveaux said he believed the USB stick he gave to Mr. Amato only contained a map and a legal description or PIN. He said he did not believe it contained any servicing report.

[492] Mr. Deveaux was given an opportunity to review the text messages sent by Mr. Amato to the ministry officials related to the Tribute property, referencing the servicing study, municipal support from 10 years earlier for inclusion of the North East Pickering area in settlement area in the official plan, information about why the province had not wanted to include the lands in the urban boundary earlier, the strength of the local regional engineering department, capacity in the Duffin's Creek plant, and that services required will be front-ended by the landowners group, which includes Dorsay, Trinison, Greenpark, Fieldgate and Tribute. Mr. Deveaux denied sending these text messages. He said he did not know who would have done that on behalf of Tribute and that he did not exchange any texts with Mr. Amato. He also said he had never spoken to Mr. Amato or Ms. Jensen by telephone.

[493] Following his interview, Mr. Deveaux advised he had been mistaken about the contents of the USB key and sent me a copy of its contents. He sent me a folder containing six items: a map dated October 26, 2022, prepared by DH from GeoProcess Research Associates, identifying two properties owned by Tribute and specifically where the Greenbelt boundary passed through them; two legal descriptions or “PINs,” one for each property; a document titled “North-East Pickering, City of Pickering, Preliminary Master Servicing Report, September 2021;” a map outlining proposed water servicing for the area; and, a map outlining proposed sanitary servicing of the area.

[494] By way of written follow up question, Mr. Amato was advised of Mr. Deveaux’s evidence about giving him a USB stick at the Toronto Region Board of Trade Luncheon on October 25, 2022, and provided copies of his texts forwarding information about this property to a ministry official on November 1, 2022. He was asked if he recalled with whom he was communicating about this property. On his behalf, Mr. Amato’s counsel advised that he did not contact anyone about this property. He said that “[t]he Greenbelt Project team had determined that the property was too far from servicing to be quickly serviced, so they did not ask Mr. Amato to seek further information about it.” Counsel also advised that “Mr. Amato believes he had a brief discussion with Mr. Deveaux about the property, which may have been at the Toronto Region Board of Trade luncheon on October 25, 2022, but does not recall the substance of that discussion.” He said Mr. Amato had no further contact with Mr. Deveaux.

[495] Devin Hock of GeoProcess Research Associates was interviewed and confirmed he created the map dated October 26, 2022 (that Mr. Deveaux told us he gave to Mr. Amato on the USB stick). Mr. Hock said that he was asked to make this map the same day it is dated, October 26, 2022, by his manager at GeoProcess Research Associates, Ian Roul. Asked about the purpose of the map, Mr. Hock said he understood the client was interested in how much land in each parcel was in the Greenbelt. He said he understood their client was Tribute Communities, but he did not know who at Tribute Communities had requested the map or the full names of the people he had dealt with at Tribute over the past two years. Mr. Hock was asked to review his records following his interview and provide these names and a copy of any emails forwarding the map.

[496] Mr. Deveaux was advised in writing of the discrepancy between his evidence that he provided Mr. Amato with the USB stick at the Toronto Region Board of Trade luncheon on October 25, 2022, and the fact that the map he had provided was dated October 26, 2022, as confirmed by Mr. Hock. He was given an opportunity to address it. Through his counsel, Mr. Deveaux advised that his memory of events from eight to 10 months ago is imperfect and indicated that he identified the wrong event at which he handed the information to Mr. Amato. Mr. Deveaux said this luncheon was the one event he found in his calendar but that he attends a great many events that do not end up in his calendar. He has been unable to identify the event at which he handed the data stick to Mr. Amato but is confident “in his core recollection that this was handed to Mr. Amato at an industry event in late October.” Mr. Deveaux also made a submission that this map was relevant to their work with respect to official plans update for the Region of Durham:

We note that you have characterized the October 26 map below as “outlining where the Greenbelt boundary crosses the Tribute lands in Northeast Pickering.” We think this characterization is somewhat confusing and very much incomplete. The map covers the entirety of Tribute’s land holdings in northeast Pickering. The demarcation between the portion of lands in the “Whitebelt” and the portion of lands in the Greenbelt is relevant to the ongoing Municipal Comprehensive Review that the Region of Durham was and is in the midst of completing. This information is and was pertinent to understanding what portion of the lands were subject to the request to include in the urban boundary, and that is why Mr. Deveaux included it.

[497] After the opportunity for further response was given to Mr. Deveaux, I received emails from Mr. Hock relating to the preparation and forwarding of the Tribute map dated October 25, 2022 and October 26, 2022. These include an email apparently sent from Mr. Deveaux to Mr. Hock’s manager at 10:35 p.m. on October 25, 2022, asking if the manager would “know how to take the whole of our lands and save as a GIS shapefile?” On October 26, 2022, there are a series of emails between Mr. Deveaux, his colleague Lucy Stocco, Executive Vice President of Tribute Communities, and Mr. Hock indicating Mr. Hock initially sent a GIS file at 10:01 a.m. to Mr. Deveaux, copied to Ms. Stocco and Mr. Hock’s manager. Ms. Stocco and Mr. Deveaux then sent emails requesting a shapefile containing only Tribute’s property “without internal acreages.” Mr. Hock then sent an email at 10:13 a.m. providing a shapefile “with the Tribute property limits only.” At 10:40 a.m., Ms. Stocco emailed Mr. Hock requesting “can you now send a GIS file for

JUST the lands IN THE GREENBELT.” Other messages ask for this information to be provided quickly and for a drawing “to reflect the greenbelt lands, only.” An email sent by Mr. Hock to Ms. Stocco, copied to Mr. Deveaux, includes both the map (identified by Mr. Deveaux as being given to Mr. Amato) and the shapefile at 2:24 p.m.

[498] The emails from Mr. Hock, and Mr. Deveaux’s further response to the date discrepancy brought to his attention, were provided to me in mid to late August 2023. I did not have the emails at the time of Mr. Deveaux’s interview or when he was asked about the date discrepancy, so he has not been specifically asked to explain his late October request for a GIS shapefile for Tribute’s Greenbelt lands around the time he was communicating with Mr. Amato. Similarly, Ms. Stocco has not been interviewed about her knowledge of these events. Since this land was not removed from the Greenbelt, and there is no suggestion of any involvement of Minister Clark, I have decided not to delay the issuance of my report by investigating this matter further.

Mount Albert

[499] One of the 22 sites considered for removal or redesignation but not ultimately put forward for the minister’s consideration was an approximately 130-acre area referred to as “Mount Albert (Geranium)” on the ministry’s table of properties and as “Geranium – Mount Albert” also on a map that was discussed at one of the meetings with the chief of staff.

[500] Cheryl Shindruk, Executive Vice President of Geranium, advised us that she recognized the site on the map but that it shows land owned by the Rice Group, not Geranium. She explained that Geranium is a residential developer and occasionally works with the Rice Group where it has lands for residential development. She said that she understands this land is in an area not currently available for residential development.

[501] Upon being asked about the map found in the ministry’s records, Michael Rice advised that it generally shows some land that is owned by a company that he controls but that it does not accurately show his land holdings. He provided another document to show the lands he owns in this area and noted he owns 40 acres to the south of this site that has been approved for 40 lots. He noted that the site is used for a trucking, topsoil and maintenance facility and the town

and local residents “would categorically like us out of this yard.” He said there have been discussions with the town over the past four years about converting the site to residential. He said he has supplied preliminary concept plans to the town but said they had not filed anything.

[502] Mr. Rice did not describe any efforts made by him or his company at the provincial level with respect to this property.

[503] Mr. Amato advised that he became aware of the Mount Albert site through the official plans process.

Gormley

[504] Ministry records indicate that the Greenbelt team considered removing or redesignating an approximately 596-acre area in the vicinity of the Gormley Go Station.

[505] During his interview, Mr. Amato advised that the Gormley site came to his attention through the official plans process.

[506] He indicated that York Region had made a proposal with respect to this site, that it be developed as a major transit station area, but it was problematic as the site is within the Greenbelt and the Oak Ridges Moraine.

[507] Records received from the ministry indicate that the Region of York sought the minister’s approval of a new official plan that included two settlement area expansions in the Oak Ridges Moraine Conservation Plan Area and requested that the minister amend the Oak Ridges Moraine Conservation Plan to permit and give effect to this proposed expansion.

[508] The information Mr. Amato provided to ministry officials about the Gormley site on or about October 3, 2022, consisted of a two-page memorandum and an additional map. It is dated October 3, 2022 and addressed “TO: Ryan Amato – MMAH” but has no sender identified. It states “[f]urther to our discussion, I offer the following justification to consider bringing lands into the Proposed [Major Transit Station Area] Boundary above and out of the Greenbelt. After an exhaustive review of the available land supply market, we have under contract these lands

because they meet all the tests of our search criteria...” Above this statement is a map outlining an 800 metre diameter circle around the Gormley GO Station, labelled “Proposed MTSA Boundary.”

[509] The wording of the memorandum, with respect to the rationale provided for bringing the lands out of the Greenbelt and search criteria listed, is almost identical to a document received by Mr. Amato from Mr. Rice with respect to the King Township property.

[510] Mr. Rice told me that for several or more years, he has had involvement with a property in this area owned by the Batra family, exploring opportunities to develop it. He told me that in October, 2022, he entered into an agreement of purchase and sale for this property but that it had not yet closed as of the time of his interview in April 2023. His plans include a deal with a one-third interest for his company, Geranium and the Condor Company. He said he did not talk to anyone in the provincial government about the Batra property, including Mr. Amato.

[511] Mr. McGovern, the senior vice-president of the Rice Group, told me at his interview that he believed Geranium prepared the October 3, 2022 memo to Mr. Amato with respect to the Gormley property. He agreed to search his emails and after his interview advised he did not locate a copy of this same memorandum. He provided me with a copy of an email he received from Cheryl Shindruk of Geranium on October 24, 2022 Re. Batra Lands Richmond Hill. Ms. Shindruk’s email is to a strategic communications consultant, attaches several documents and asks the consultant to call her. Mr. McGovern and Mr. Rice are copied on this email. Mr. McGovern pointed out that one of the attachments to her email is an October 6, 2022 submission to the ERO consultation regarding the York Region Official Plan made by Ms. Shindruk, asking that the proposed Major Transit Station Area around the Gormley GO Station be expanded to a diameter of 800 metres.

[512] I then interviewed Ms. Shindruk. She confirmed that she made a submission through the ERO with respect to this site.

[513] Ms. Shindruk told me that she was prompted to send in the ERO submission by a conversation with Mr. McGovern on October 5, 2022. She said both Rice Group and Geranium

had an interest in a property in the Gormley area, referred to as the Batra property, that they had been in discussions about it for years. She said Mr. McGovern told her there was an opportunity to make a submission with respect to it through the ERO and he could provide her with a draft but asked that she make the submission. Ms. Shindruk was leaving on vacation shortly thereafter, made the relatively brief October 6, 2022 submission through the ERO consultation site, which was closing on October 7, 2022, and then sent a follow up submission, with more details and supporting maps, directly to the ministry on October 14, 2022, after the ERO consultation had closed. She also provided me with a copy of that later submission.

[514] Ms. Shindruk was shown a copy of the October 3, 2022 memorandum about Gormley that was given by Mr. Amato to ministry officials on or about October 3, 2022. She said that while she had not seen that specific version of the memo before, it was a version of the document given to her by Mr. McGovern on October 5, 2022.

[515] Ms. Shindruk told me that in the fall of 2022, Geranium had retained the services of Mr. Fidani-Diker with respect to municipal approval issues involving other projects, but nothing related to the Greenbelt.

[516] By way of written follow up questions, Mr. Amato was asked to identify with whom he was communicating to obtain information about the Gormley site, and in particular whether he communicated with Mr. Rice, Ms. Shindruk or anyone from Geranium or Condor about these lands. Through his counsel, Mr. Amato advised that he had been aware of “the Gormley property” before he became chief of staff to Minister Clark. He said Mr. Amato does not believe he sought a shapefile for this site and does not believe he was asked to do so. He submitted “[t]he Greenbelt Project team determined that the property did not meet the criteria.” Counsel further advised that “Mr. Amato did not communicate with Michael Rice or Cheryl Shindruk about this property. To his knowledge, he did not communicate with anyone from Condor or Geranium about this property.”

[517] I find Mr. Amato’s suggestion that he was not communicating with anyone about this site difficult to reconcile with the memorandum he provided to ministry officials on October 3, 2022,

described above, which is personally addressed to him. There is also documentary evidence, including notes on the ministry's table for the October 17, 2022 meeting and on every table thereafter through to October 26, 2022 indicating that officials were relying on information "from USB" to estimate 178 acres for the Batra and GO layover lands, 25 acres for the Montanaro lands and 23 acres for the Verdi Alliance lands.

Rizmi

[518] This 170-acre site was considered but not put forward for removal or redesignation.

[519] Mr. Amato initially advised me at his first interview that he became aware of this site through the official plans process. He later advised me, on August 25, 2023, in written responses to follow up questions, that this property "came through Deputy Minister Manson-Smith."

[520] Ministry records indicate that a request was made through an ERO submission with respect to the York Region Official Plan.

[521] I accept that Deputy Minister Manson-Smith or a member of her team may have brought this site to Mr. Amato's attention, as she also oversaw ministry officials reviewing official plans and amendment requests at the same time the Greenbelt team was doing its separate work. This site was well known to the ministry. It is located on the Oak Ridges Moraine and the Greenbelt. My understanding is that the landowner had long advocated for developing the site. I was provided with evidence that the previous government, prior to 2018, had engaged the Provincial Land Development Facilitator to attempt to find a resolution. These efforts continued after 2018 but were ceased in 2019 after no resolution had been reached.

[522] The typed meeting notes and notes on the ministry's table of properties indicate there was little discussion about this property and it was quickly identified at the first meeting where it was raised that it would not be put forward for removal or redesignation.

267 Sulphur Springs Road in Hamilton

[523] This property was also considered by the Greenbelt Team but not put forward for removal or redesignation. This is one of the three properties Mr. Amato is alleged to have said were given

straight from the premier (or possibly the Premier's Office). While I have found that it is more likely than not that Mr. Amato said this, his statement was not in fact true.

[524] Deputy Minister Manson-Smith advised that Mr. Amato provided information about this site to ministry officials on the third USB stick he provided to them and that the materials have a date modified of October 19, 2022.

[525] This property is first referenced in the meeting document prepared by ministry officials for the October 21, 2022 meeting with Mr. Amato. It is not listed on the table, but mentioned in a note after the table, which states "Lands at 267 Sulphur Springs Road in Hamilton – lands are within the Niagara Escarpment Plan designated as Escarpment Protection, adjacent to the Urban Area designation."

[526] Mr. Amato advised he does not recall this property and does not believe he sought a shapefile for this property.

[527] A title search indicates this property has been owned for many decades by members of the Coon family.

[528] I have gathered no information as to how this property came to the attention of Mr. Amato.

The Greenbelt Request that Was Not Forwarded to Ministry Officials

[529] In response to my request for a copy of all requests received from developers, Mr. Amato provided one request that was never mentioned in any of the ministry materials.

[530] This request was made on October 19, 2022, by Mitchell Chang, who sent an email at 10:49 p.m. to Minister Clark using the address minister.mah@ontario.ca, copied to Mr. Amato, Ms. Jensen and Connor Lund, who was then a policy advisor in the minister's office. The subject line reads "Re. Bayly and Lake Ridge (650 Lake Ridge Road South), Town of Ajax – Removal from the Greenbelt." In the body of the email, Mr. Chang wrote "Dear Minister Clark, Please see attached letter. Please confirm receipt as sometimes my emails go to Junk Files." He attached a

10-page submission including four maps and a detailed rationale. In brief, Mr. Chang requests removal of about 150 acres at 650 Lake Ridge Road South in Ajax. According to the maps provided by Mr. Chang, the property appears to be on the edge of the Greenbelt and adjacent to an existing subdivision and other urban uses.

[531] My staff spoke with Mr. Chang who confirmed he was part of a group of investors who purchased this property in July 2022.

[532] Mr. Chang said that some time after purchasing this property, he consulted Mr. X, who indicated these lands should not be in the Greenbelt but advised him not to make a request at that time. Mr. X has not been given an opportunity to respond to this evidence.

[533] Mr. Chang told my staff that he then consulted Mr. Van Loan. He said that Mr. Van Loan told him it can't hurt to submit something and assisted him in drafting the request he submitted by email on October 19, 2022.

[534] Mr. Chang said he did not receive a response from the minister, Mr. Amato or Ms. Jensen, but that on December 2, 2022, he received an email from Mr. Lund, inviting him to make a submission before December 4, 2022 through the ERO posting for the Greenbelt removals consultation.

[535] Mr. Van Loan was given an opportunity to respond to this information. He said that when he was initially approached by Mr. Chang, he advised him that removals were unlikely to occur and they agreed they would revisit the possibility if the government ever opened a process to consider Greenbelt removals. Mr. Van Loan said that Mr. Chang contacted him again a short time later, indicating he wished to make a submission despite Mr. Van Loan's previous opinion. Mr. Van Loan said he provided some advice about what he thought "were the best planning arguments for removal" but did not review any email submission from Mr. Chang.

[536] After his in-person interviews, by way of a written follow up question, I brought this email to Mr. Amato's attention, noting that it conflicted with my understanding of his evidence that he passed along to ministry officials all the Greenbelt requests he received during the Greenbelt

project. Mr. Amato was asked to advise what he did with this request and if he did not provide it to ministry officials, to explain why. He was also asked to confirm if he had any contact about it with Mr. Chang, Mr. X or Mr. Van Loan. On his behalf, his counsel responded:

Mr. Amato does not recall previously seeing the email messages enclosed with your letter. He is not familiar with the property it refers to. He notes that the email was sent to the “minister.mah@ontario.ca” email address, which he understands is a general email monitored by the public service, not the Minister’s personal email address. The email was not addressed to Mr. Amato, who was one of several individuals copied on the email. There is thus no conflict in his evidence. Mr. Amato did not contact anyone – including Mr. Chang, Mr. [X], or Mr. Van Loan – about the email.

VI. ANALYSIS

[537] I should be clear that this inquiry is limited to determining whether Minister Clark’s role in the decision to remove certain properties from the Greenbelt was not in compliance with the Act. Although there is considerable overlap in the evidence gathered in this inquiry and the report recently issued by the Auditor General the focus of this report is quite different.

[538] Ms. Stiles swore an affidavit on December 9, 2022 and filed it with the Speaker in support of her request that I conduct an inquiry under s.31 of the Act and provide my opinion as to whether Minister Clark had breached either or both of sections 2 and 3 of the Act. Those sections read as follows:

Conflict of interest

2 A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member’s private interest or improperly to further another person’s private interest.

Insider information

3(1) A member of the Assembly shall not use information that is obtained in his or her capacity as a member and that is not available to the general public to further or seek to further the member’s private interest or improperly to further or seek to further another person’s private interest.

Same

(2) A member shall not communicate information described in subsection (1) to another person if the member knows or reasonably should know that the information may be used for a purpose described in that subsection.

[539] Private interest has been interpreted in many reports as a pecuniary interest.²² There is no question here that developers whose lands were removed from the Greenbelt or redesignated had their private or pecuniary interest furthered.

Mandate Letter

[540] I believe that the portion of the mandate letter dealing with the Greenbelt, which I have quoted in the evidence, was misinterpreted by Minister Clark and Mr. Amato which led them to embark on what I find to have been a process that was rushed, non-transparent and almost reckless. They believed they had received direction to develop and implement a policy of land swaps, expansions and contractions for the Greenbelt all by the Fall of 2022, only a few months away.

[541] In fact, a competing interpretation of the mandate letter was held by the premier and members of his staff who were responsible for drafting the mandate letter. Mr. Sidnell, the premier's former deputy chief of staff and head of policy, thoughtfully explained that the mandate letter simply directed Minister Clark and his team to "explore the possibility of" using some Greenbelt lands for housing.

[542] This view was consistent with that of Mr. Truesdell, Director of Housing Policy in the Premier's Office, who was part of the team with Mr. Sidnell that drafted the mandate letter. His view was that the Greenbelt item would not be addressed until later in the term, in 2023 or 2024. Presumably work to explore possibilities could get underway in Fall 2022, but there was no expectation that there would be a proposal for site specific removals in a matter of months.

²² Report re. The Honourable Bob Chiarelli, the Honourable Michael Coteau and the Honourable Yasir Naqvi, December 8, 2016 at paras. 62-64; Report re. the Honourable Bob Chiarelli and the Honourable Charles Sousa, August 9, 2016, at paras. 49 to 52.

[543] Similarly, the premier’s understanding of the advice he gave to Minister Clark was that it was intended as general policy direction only.

[544] The misunderstanding between the minister’s office and the staff in the Premier’s Office was compounded by the fact that Mr. Amato chose not to reveal what he had been doing on implementing a policy of Greenbelt removals until about a week before the minister was to be briefed and about two weeks before the matter went to cabinet. Had there been the normal flow of information between political staff in each office, this serious misinterpretation might have been corrected and more time and thought given to codifying a process for removing and replacing land within the Greenbelt. Unfortunately, that was not done.

Mr. Amato’s Direction to Ministry Officials

[545] One of the research papers²³ supporting the Gomery Commission of Inquiry into the Sponsorship Program and Advertising Activities examined the tension that can exist between a minister’s political staff including a chief of staff (referred to at that time as exempt staff) and the public servants working in a department (or a ministry provincially). A Privy Council Office document states that “exempt staff do not have authority to give direction to public servants but they can ask for information or transmit the Minister’s instructions, normally through the Deputy Minister.” The author of the paper outlined that her research with public servants revealed “examples, large and small, where ministerial staff have, on their own authority, given instruction to the department. These range from relatively minor instances where changes were ordered to the wording of a document, to demands for revisions to a funding formula negotiated by public servants with the provinces, to, as evidence at the Sponsorship Inquiry suggests, direct “input” into the selection of recipients for the government’s largesse ... One former Special Assistant

²³ Liane Benoit, “Ministerial Staff: The Life and Times of Parliament’s Orphans,” *CBC - The Gomery Report: Restoring Accountability – Research Studies: Volume 1 Parliament, ministers and deputy ministers* (February 1, 2006), online: https://www.cbc.ca/news2/background/groupaction/v2fullreport/CISPAA_Vol1_5.pdf

admitted that he and his colleagues were pretty loose with the term “the minister wants” when it came to their dealings with the department”.

[546] The only time direction should flow from political staff to public servants, including a deputy minister, is when it is clear that the political staff is acting in the role of proxy for the minister or the government. With this in mind, I noted the frequent references in the evidence of the public servants at this inquiry as having received direction from Mr. Amato. They actually believed that he was filling a proxy role from the Premier’s Office or, in one case, from Premier Ford himself. I find that Mr. Amato succeeded in this deception by dropping frequent references to meeting with staff of the Premier’s Office as the selections were being put forward to ministry officials for consideration. In fact, I have found that the Premier’s Office staff were not providing such direction. The Premier’s Office was kept in the dark by Mr. Amato as to the process he drove for the selection of properties to be removed from the Greenbelt until very near the end before the briefing of the minister.

[547] Public servants are not powerless when confronted by directions from political staff or even elected officials which are unethical or wrong-headed. They need not docilely follow such directions. Under the ethics framework set out in the *Public Service of Ontario Act*, public servants in a ministry can approach their deputy minister who, in turn, can report the matter to the Secretary of the Cabinet who can weigh in with all the authority of Cabinet Office. This was never contemplated in this case because Mr. Amato was so convincing in the role of proxy. In fact, as I have found, there was no basis for him to exercise this authority, as he was not in fact transmitting instructions from the Minister or even the Premier’s Office.

Section 3 – Insider Information

[548] I propose to deal with the allegation under section 3 first. Although Ms. Stiles did not identify which subsection of section 3 she relied on in her request, I take it that it is section 3(2), which seems to accord with her allegations. This involves the question of whether any developers whose lands were removed from the Greenbelt or redesignated had been alerted by the minister or his staff that the government was changing its position on the Greenbelt. In other words, were

they “tipped off” by the minister or his staff and did they take advantage of the information so acquired to further their private interest.

[549] Initially I shared Ms. Stiles’ concern as expressed in her affidavit that Minister Clark in Question Period provided non-responsive answers to a member as to whether he or “any other government or PC Party official” shared information with any landowner about Greenbelt removals prior to the government announcement on November 4, 2022. Although not referred to in Ms. Stiles’ affidavit I was aware of a second member, Jeff Burch, MPP for Niagara Centre, who asked the minister virtually the same question in a subsequent Question Period and received the same non-response. Ms. Stiles noted that in an interview with QP Briefing on November 17 when asked if any developers were given advance notice about the decision to remove lands from the Greenbelt, Minister Clark did not deny it and simply said that he met with developers all the time.

[550] This would not be the first time a minister’s answer in Question Period was non-responsive to the question posed. It happens frequently. In court when a witness is non-responsive to the question asked it detracts from their credibility. I appreciate that the political cut and thrust of proceedings in the legislative assembly or a press conference provide a wholly different context than the serenity of a court of law, however I made note of it when it occurred and subsequently when it found its way into Ms. Stiles’ affidavit. It was not until later at a subsequent press conference that Minister Clark provided the denial that anyone had been tipped off.

[551] Ordinarily there are no real consequences to being non-responsive to questions in Question Period, but in this case it did contribute to the reasonable and probable grounds necessary for me to decide to conduct an inquiry under the Act. Members should take note.

[552] In her affidavit, Ms. Stiles particularized two transactions from which she invited me to draw an inference that certain developers had been alerted that the government would change their Greenbelt policy, resulting in their purchases of land closely before the public announcement was made on November 4, 2022.

[553] The first of these transactions was the purchase by Michael Rice and the Rice Group of five parcels of land in King Township from Schickedanz Bros. Ltd. less than two months before the announcement. I have covered this transaction exhaustively in the Evidence portion of this report from paragraphs 272 to 291. Suffice it to say that I find the inference sought to be drawn by this transaction was not borne out by the evidence.

[554] As a further example of a developer being tipped off, Ms. Stiles swore that a Globe and Mail article of November 28, 2022, “alleged that TACC Developments borrowed \$100 million from CIBC to cover the purchase of [certain lands] at an interest rate of 21 percent annually.” The inference here being that TACC must have known the property was soon to be removed from the Greenbelt to sustain that kind of purchase price and financing arrangement. In fact, as Silvio DeGasperis testified before me as well as in a communication from a TACC spokesperson to the Globe and Mail it was confirmed that the \$100 million loan was for future development costs. Recording the 21% interest rate on title was merely bank practice to avoid having to redo the mortgage document whenever the interest rate changed. In fact, the actual purchase price for the land was \$30 million and the interest rate was prime plus 75 basis points. The Globe and Mail published an updated story with this information on January 9, 2023. I find that the inference sought to be made in Ms. Stiles’ affidavit in this transaction was also not supported by the evidence.

[555] There are three factors required for a breach of section 3(2) to be made out:

- i. There must be a communication of insider information (the tip-off) by the minister or his staff;
- ii. The communicator must know or should know that the information may be used or sought to be used to further another person’s private interest; and
- iii. The furtherance of that private interest must have been done improperly.

Communication of Insider Information

[556] The insider information in this matter was the direction from the mandate letter given to Minister Clark to the effect that the existing Greenbelt restrictions on development were being reconsidered.

[557] Mr. Amato's evidence is that he was careful not to say that the government was going to reopen the Greenbelt. He said he would say "no decisions on Greenbelt removals have been made. We are looking at your properties." Mr. Amato told me "I'm sure they would speculate. But I think, as you can see, there was no leaks or rumour mill on our side."

[558] Communication, however, can take many forms. It is not confined to the spoken word. Mr. Amato received packages from developers or their representatives concerning their lands at dinners or lunches (through his deputy) or at his office. He even attended the office of one of the developers to receive a package and review the features of that developer's land with him. He then took active steps to obtain information from certain developers or their representatives, including legal descriptions and shapefiles. I find that these actions were tantamount to Mr. Amato saying the words he had been careful not to say.

[559] Developers may be congenitally optimistic in the words of Mr. Van Loan, but they are not stupid. When they were met with this kind of interest in their properties from the minister's chief of staff, which was in stark contrast to what they had been told for the whole of the government's first term, I find that it was reasonable for someone such as Mr. Rice to conclude, as he did, that "they were looking at the Greenbelt."

[560] I find that the first factor of communication of insider information for a breach of s.3(2) has been made out.

The Communicator Must Know that the Information May Be Used or Sought to Be Used to Further Another Person's Private Interest

[561] I find that this factor is readily made out. There is little doubt that Mr. Amato must have known that his communications to the developers would be used by them, particularly when he

approached them and asked for shapefiles and legal descriptions of their properties. Not only did they provide him with the information sought in order to further their private interests, in the case of Alana De Gasperis she provided him with information on another three properties, thus seeking to further her family's pecuniary interest in those properties as well. This came as no surprise to Mr. Amato who said in his evidence relating to this additional information that "as most developers do or landowners or stakeholders, they don't just shoot their shot on one item; they ask for the moon and hope for something back."

[562] Similarly it should not have come as a surprise to Mr. Amato that Mr. Rice would use his newly acquired knowledge that "the government was looking at the Greenbelt" to attempt to further his interest in a Gormley property through Cheryl Shindruk, executive vice president of Geranium, which had a shared interest in that property with Mr. Rice's company. The fact that the Gormley property was not removed or redesignated does not change the fact that information from Mr. Amato was sought to be used to further a private interest. An attempt is sufficient for the purposes of section 3 of the Act.

The Furtherance of that Private Interest Must Have Been Done Improperly

[563] In the Ford Report,²⁴ I set out a test pointing to five factors which can be considered to determine whether a member's conduct²⁵ improperly furthered another person's private interest. Those factors are:

- i. *The relationship between the member and "another person"*. In the Ford Report, I held that a close friendship or family relationship in and of itself is insufficient to establish impropriety. In this matter I find that neither Minister Clark nor Mr. Amato had a close personal relationship with any of the developers. They were stakeholders and that was it.

²⁴ Report re. the Honourable Doug Ford, March 20, 2019, at paras. 302 to 320.

²⁵ The focus here is on the member's conduct. In this inquiry, I am not tasked with assessing whether developers or lobbyists acted improperly.

- ii. *The degree of the member's involvement in the decision at issue, or the process leading to it.* Mr. Amato had a leading and almost exclusive role in selecting the properties to be removed or redesignated from the Greenbelt. Minister Clark played a limited role in the design of the process leading up to the selection of sites to be removed, but that is precisely the problem in this case as he should have been more aware of what was going on in his ministry and how the process contemplated by the mandate letter was unfolding.
- iii. *Whether the member acted for an improper purpose.* The most egregious example of a member acting for an improper purpose can be found in the case of *Roncarelli v. Duplessis*²⁶ where the Premier and Attorney General of Quebec Maurice Duplessis ordered the general manager of the Quebec Liquor Commission to revoke Frank Roncarelli's liquor licence for a restaurant Mr. Roncarelli owned in Montreal. The premier's reason for this action was that Mr. Roncarelli had posted bail for a number of Jehovah's Witnesses who had been arrested for their religious activities. Although the Supreme Court of Canada decided on other grounds in Mr. Roncarelli's favour, Justice Rand held in a concurring majority opinion that "discretion necessarily implies good faith in discharging a public duty." It "means carrying out the statute according to its intent and purpose."²⁷ I accept the purpose of the decision to remove lands from the Greenbelt was to address the housing crisis. For the purposes of assessing whether there has been a contravention of section 3 of the Act, I find this purpose is not improper. Some may think it is the wrong decision and unnecessary for the purpose stated, but it is within the purview of government to enact measures it believes will advance its policy decisions.
- iv. *The process used for the decision.* Although the purpose of removing lands from the Greenbelt for housing may not have been improper, the process used for specific site removals was seriously flawed, as I will explain below.

²⁶ 1959 CanLII 50 (SCC), [1959] SCR 121

²⁷ Ibid. at p.140.

- v. *Whether there was an objective basis for the decision.* Given the limitations of the selection process, it cannot be argued that the properties selected for removal were objectively better than other properties which were not considered. This factor also dovetails with the third factor above which considers whether the member acted for an improper purpose. This brings me to the issue of political donations which I will deal with below. If it can be demonstrated that a property was selected for removal from the Greenbelt to somehow reward a political donor, that could weigh in favour of a finding that the selection was made to further the interests of the donor improperly.

Political Donations

[564] In Ms. Stiles' affidavit there are several references to political contributions to the Ontario PC Party made by nine of the developers involved that would benefit from the Greenbelt changes. The amounts contributed are well within the permissible limits. Some developers made infrequent contributions over the last five years. The De Gasperis companies and the individuals involved in those companies (corporate donations were not permitted after 2016) including the De Gasperis brothers and Alana De Gasperis donated \$163,362 over nine years according to Ms. Stiles. This would amount to \$18,151 per annum divided among several people, again all within permissible limits according to law.

[565] I think it is too facile to draw an inference from political contributions to major policy shifts made by government. For one thing it ignores the fact that developers frequently contribute to more than one political party. Elections Ontario records disclose that members of the De Gasperis family contributed to the Liberal Party of Ontario as well. In his interview with me, Mr. De Gasperis proclaimed that "last year I even gave to the NDP". He followed that up by putting forward his underlying philosophy behind political donations by saying "they can't help you, but they can hurt you."

[566] A further example of how difficult it is to draw conclusions from political donations can be found in the evidence of Shakir Rehmatullah, one of the developers whose lands were

removed from the Greenbelt who has been linked in media stories to a current cabinet minister (I will deal with this linkage later in this report). Elections Ontario records disclose that Mr. Rehmatullah contributed to the cabinet minister's Liberal opponent in 2018 and contributed nothing to the cabinet minister's campaign either in 2022 or when he first ran for election as an MPP in 2018. The absence of a campaign contribution does not mean that they are not friends, but it does highlight the difficulty of drawing meaningful conclusions on the basis of voters exercising their constitutional right to participate in the democratic process. As an aside, I also note that last year Mr. Rehmatullah made a donation to the Green Party.

[567] This is not to say that political donations are a totally irrelevant factor, but their significance can be overplayed. When measured against the total amount collected by the Ontario PC Party in the last five years - in excess of \$35 million - the individual contributions by the developers in this matter are a "drop in the bucket" in the opinion of one commentator.²⁸ Besides, I am not at all confident that political donations weighed very much, if at all, in the madcap method by which Mr. Amato accumulated properties to be removed from the Greenbelt.

[568] As I said in the Chiarelli and Sousa Report²⁹ "When it comes to political parties, there is a tendency to view political donations negatively; I think this is a mistake. As former Conflict of Interest Commissioner of British Columbia Ted Hughes wrote in a 1993 opinion about whether political donations could create the appearance of a conflict of interest, 'in our system of parliamentary democracy, campaign contributions are to be encouraged and fostered and must be seen in a positive light as an interest accruing not only to a political party but also to the public generally.'"

[569] I cannot find that political donations were the basis for the decision to remove lands from the Greenbelt. Accordingly, I find there was an objective basis for the decision, namely to address the housing crisis.

²⁸ Martin Regg Cohn, "Doug Ford will be haunted by these 5 questions on his Greenbelt land grab" The Toronto Star (December 5, 2022), online: https://www.thestar.com/politics/political-opinion/doug-ford-will-be-haunted-by-these-5-questions-on-his-greenbelt-land-grab/article_515fd148-8ce9-58aa-80de-c5917747f353.html

²⁹ Supra, at para. 54

Submissions and Conclusion with Respect to the Five Factors

[570] Minister Clark submitted that, while applying the five factors, I should also adopt the test formulated by the former federal Conflict of Interest Commissioner, Mario Dion, when he interpreted the meaning of impropriety under the federal *Conflict of Interest Act*³⁰ in his Trudeau II Report. Specifically, the minister's counsel proposed that I should assess the question whether the minister used his office to commit a "fundamental or serious error." They also noted that Commissioner Dion held that "[m]ere technical irregularities will likely not rise to the level of an improper furthering of private interests" and that impropriety "occurs when a public office holder exercises an official power, duty or function that goes against the public interest, either by acting outside the scope of his or her statutory authority, or contrary to a rule, a convention or an established process."

[571] I do not agree with that submission. While the five factors I have identified to assess whether something was done improperly may not be exhaustive and others may be identified, I do not interpret the relevant provision of the Act as narrowly as Commissioner Dion interpreted the federal statute. In particular, I am of the view that if the Legislative Assembly of Ontario wished to restrict the definition of improperly under the Act to cases where a member acted outside the scope of their statutory authority or contrary to a rule, convention or established process, then it would have used language to that effect.

[572] Applying the five factors to the determination of whether a member's conduct improperly furthered another person's private interest, I find that the second factor (degree of member's involvement in the decision at issue or the process leading to it) and the fourth (process used for the decision) weigh heavily in favour of a conclusion that another person's private or pecuniary interest was furthered or sought to be furthered improperly in this case.

³⁰ SC 2006, c.9

Attribution of the Minister's Chief of Staff's Conduct to Minister Clark

[573] There are several reports where Commissioners have dealt with the issue of attributing the actions of staff back to a member who had little or no knowledge of the staff's actions.³¹ As I said in the Bethlenfalvy Report: "the principles set out in these reports strike a reasonable balance. It would be unfair to find members in breach of the Act where – through no fault of their own and without their knowledge – their staff make mistakes. On the other hand, members cannot hide from accountability under the Act where, through undue carelessness or inattention, they fail to oversee important policies or decisions in their offices."³²

[574] Minister Clark has maintained that he was unaware of the various steps taken by his chief of staff relating to the Greenbelt item project. I have found that I believe him that he chose to absent himself from directing this file or receiving information on it from September 15 when Mr. Amato told him "leave it with me" until he was briefed on October 26 before it went to cabinet. I find that he never knew, nor did he question how properties were selected for removal or redesignation from the Greenbelt until after the matter had gone to cabinet.

[575] Mr. Amato's communications to developers must be attributed to Mr. Clark because I find he failed to oversee an important initiative in his ministry which led to some developers being alerted to a potential change in the government's position on the Greenbelt with the result that their private interests were furthered improperly.

[576] The allegation under section 3(2) is therefore made out.

Section 2 – Conflict of Interest

[577] It follows from the analysis and findings under section 3(2) that the allegation under section 2 is also made out.

³¹ Report re. the Honourable Peter Bethlenfalvy, October 21, 2019 ["Bethlenfalvy Report"], at paras. 271 to 273, Report re. Jagmeet Singh, June 26, 2015, at pp. 17 to 18, Report re. Laurie Scott, October 1, 2013, at para. 15., and Report re. the Honourable Brad Duguid, July 11, 2013, at para. 73.

³² Bethlenfalvy Report, *ibid.* at para. 273.

[578] Mr. Amato was the driving force behind a flawed process which provided an advantage to those who approached him. It was unfair to those landowners who had an interest in seeing their lands removed and who were unaware of the potential change to the government's Greenbelt policy. The argument that they could be considered at a later time must not be particularly comforting to them now. Many of the flaws in the process arose because it was unnecessarily rushed. At least one of the developers who submitted applications to Mr. Amato for removal of their lands included other lands in their proposal which did not belong to them but were submitted so that the proposal would avoid the "hole in the doughnut" criterion. These affected landowners never asked for removal. It is not clear whether the public service members of the Greenbelt team ever considered this fact, let alone had any time to do anything about it.

[579] The chaos surrounding this process led to an uninformed and opaque decision which resulted in the creation of an opportunity to further the private interests of some developers improperly.

[580] Consistent with the analysis under section 3(2) of the Act above, the actions of Mr. Amato in driving the process must be attributed to Minister Clark. The minister himself made three errors which contributed to the improper result of the process.

[581] First, he misinterpreted the Greenbelt item in the mandate letter with respect to what was expected and by when, which led Mr. Amato to embark on a rushed process with unfortunate results. By recommending specific properties for removal and specific lands to replace the removals in Fall 2022, Minister Clark went far beyond what the mandate letter asked him to do, which was to "complete work to codify processes for swaps, expansions, contractions and policy updates for the Greenbelt." If Minister Clark had a better understanding of his direction in the mandate letter, he could have questioned why specific properties were proposed for removal before a clear process for removals, swaps, expansions and contractions was codified. Attempting to identify properties and post them for removal within a few months, while also moving forward on two significant pieces of legislation, and official plan approvals among other ministry business set an arguably impossible task for his new chief of staff to implement well. While Minister Clark's misunderstanding of the mandate letter alone might not be enough

for attribution of his staff's mistake, his mistake in this regard was compounded by his other errors.

[582] Second, he made the decision to withdraw from the supervision and direction of this highly significant initiative within his ministry, leaving it to his recently appointed chief of staff who had never served in that capacity before and who was admittedly "drinking from a firehose" trying to grasp all of his new responsibilities. If Minister Clark believed he was going to bring to cabinet a proposal to remove specific properties from the Greenbelt by the end of Fall 2022, he should have stayed on top of at least the high-level details of how his staff were moving it forward, for example the establishment of criteria and a selection process.

[583] Third, he made the decision to take the proposal to cabinet without having questioned Mr. Amato or the deputy minister, when he was briefed on October 26 as to how the properties had been selected for removal or redesignation. The minister has submitted that he was entitled to assume the process for selection of the properties was open and fair because none of the public servants involved ever brought any concerns about the process or Mr. Amato's conduct to his attention. I find that the evidence does not bear this out. While I am respectful of the principle of privilege over the substance of cabinet discussions and do not want to unnecessarily refer to advice provided to cabinet, I must point out that there were flags raised in both the draft cabinet submission reviewed with Minister Clark on October 26, 2022 and the final November 2, 2022 cabinet submission signed by Minister Clark that the government should anticipate criticism from stakeholders, other landowners and the public about the lack of transparency, process and criteria and that the process may be viewed as "unscientific and partisan." In the circumstances, Minister Clark needed to ask more questions.

[584] Those three errors are evidence of Minister Clark's involvement in the ultimately flawed process to remove the properties from the Greenbelt. Together with the actions of Mr. Amato, which are attributed to Minister Clark as well, I am led to conclude that the minister has also breached section 2 of the Act.

[585] Minister Clark submitted to me that “ministers are entitled to – indeed, must – delegate significant authority to and repose significant trust in, their senior staff. Staff are entitled to connect with stakeholders, such as landowners and developers, and receive input on policy. Staff are also entitled to work with Ministry officials to develop policy. Given their workload, Ministers cannot participate directly in the details of those processes.” He cited to me the examples of my previous decisions in the Ford Report and Bethlenfalvy Report, where I found, respectively, that Premier Ford was not responsible for a flawed hiring process and a cabinet minister was not responsible for a breach of parliamentary convention on the part of his staff. Both these decisions are distinguishable on their facts.

[586] I found in the Ford Report that Premier Ford had every right to assume that there had been a fair and open process for the hiring of a new commissioner for the Ontario Provincial Police. That is because Premier Ford was at arm’s length from this process, where one of his friends was interested in the position. In the circumstances of that case, it was proper for him to have no knowledge of the hiring process. This case is decidedly different. This was a process being conducted on a politically sensitive and highly significant policy shift on the Greenbelt being dealt with by the Minister’s own ministry. Unlike Premier’s Ford’s case, Minister Clark had every right to involve himself in the process and the public had every right to expect that he would be involved every step of the way.

[587] Similarly, the facts of the Bethlenfalvy Report, relied on by Minister Clark, were completely different than what we have here. In essence, the minister in that case missed a document in a voluminous briefing binder setting out an ad spend strategy developed by his staff to raise his social media profile. His level of inattention to a relatively minor item is not on the same scale as what occurred in this case.

[588] While I agree with the minister’s submission that, in general, ministers must delegate some authority to their staff and cannot be everywhere at once, I suspect the minister would agree with me that he cannot wholly delegate this authority to become a “rubber stamp.” Similarly, while I also agree that it is generally acceptable for minister’s staff to communicate with stakeholders, there are limits to appropriate communications.

VII. OTHER ISSUES

Allegations and Evidence Gathered with Respect to the Alleged Las Vegas Trip

[589] On June 29, and July 24, 2023, published media articles³³ reported sources had alleged that in early 2020, Amin Massoudi went on a trip to Las Vegas with Shakir Rehmatullah and then-Member of Provincial Parliament Kaleed Rasheed.³⁴ At the time, Mr. Massoudi was principal secretary to Premier Ford. The article also reported that Mr. Rehmatullah's companies have received at least five MZOs since 2020, and that they owned lands that were removed from the Greenbelt in 2022.

[590] Given the potential relevance of these allegations to this inquiry, I asked Mr. Massoudi, Mr. Rehmatullah and Mr. Truesdell to appear for a second interview. I also asked Mr. Rasheed to attend for an interview. Ultimately, given the focus of this inquiry on Minister Clark, I am not relying on evidence about the Las Vegas trip to reach any findings with respect to Minister Clark and make no findings with respect to it, but am summarizing the evidence gathered in this report to show the investigative work that was done in this regard.

[591] Mr. Massoudi told me that he, Mr. Rasheed and Mr. Truesdell are friends. He and Mr. Truesdell have known each other for several years and both got to know Mr. Rasheed while they were all working in Queen's Park after the 2018 election. In 2019, Mr. Truesdell had left his public service role to run unsuccessfully in the October 21, 2019 federal election as the Conservative Party of Canada candidate for the Toronto – St. Paul's riding. Mr. Massoudi said that Mr. Truesdell

³³ Charlie Pinkerton, "Doug Ford's right-hand man, PC MPP went to Las Vegas with Greenbelt developer in 2020: sources," *The Trillium* (June 29, 2023), online: <https://www.thetrillium.ca/news/the-trillium-investigations/doug-fords-right-hand-man-pc-mpp-went-to-las-vegas-with-greenbelt-developer-in-2020-sources-7212244> and; Charlie Pinkerton, "Now-housing policy director for Premier Ford also went to Vegas with Greenbelt developer: sources", *The Trillium* (July 24, 2023), online: <https://www.thetrillium.ca/insider-news/politics/now-housing-policy-director-for-premier-ford-also-went-to-vegas-with-greenbelt-developer-sources-7316651>

³⁴ Mr. Rasheed was appointed Associate Minister of Digital Governance in June 2021 and Minister of Public and Business Service Delivery in June 2022. As he was not a minister at the time of the Las Vegas trip, he is referred to as Mr. Rasheed in this report.

and his wife were expecting a child in early 2020. To “have a last hurrah,” he, Mr. Rasheed and Mr. Truesdell decided to take a trip to Las Vegas in early December 2019.

[592] While they were in Las Vegas, Mr. Massoudi and Mr. Rasheed briefly encountered Mr. Rehmatullah in the lobby of their hotel. Mr. Massoudi said they exchanged pleasantries, that he said hello and that it was mostly Mr. Rasheed who spoke with Mr. Rehmatullah, asking him what he was up to and what was he doing there in Las Vegas. Mr. Massoudi believes Mr. Rehmatullah was alone at the time they encountered him.

[593] During his first interview, Mr. Massoudi advised me that he had met Mr. Rehmatullah a handful of times. He said he had met Mr. Rehmatullah “through the circles at Queen’s Park,” first at a Ramadan event hosted by Mr. Rehmatullah “early on in the mandate,” then at a fundraiser in Brampton likely in early 2022. He believes they may have met again at the August 2022 wedding of Premier Ford’s daughter.

[594] At his second interview, Mr. Massoudi explained he did not mention the brief encounter in the lobby of the Las Vegas hotel because it “didn’t come to mind.” He said he and Mr. Rehmatullah have not travelled together, gone out for dinner together, had coffee or tea together, golfed or attended any sports games or shows together. He said he has never been to Mr. Rehmatullah’s office and when asked if he had ever been to his home, said “not that I recall.” Other than attending the Ramadan event hosted by Mr. Rehmatullah, which I understand was sometime in 2018 or early 2019 and at which Mr. Massoudi may have consumed a beverage or light refreshments, he does not recall ever receiving any gifts from Mr. Rehmatullah. Mr. Massoudi said that while he worked for the Premier, he may have asked Mr. Rehmatullah how business was going in the course of conversation, but he never talked to him about any specific projects. Mr. Massoudi said that since leaving government, he has not spoken to Mr. Rehmatullah about his new consulting business.

[595] Mr. Massoudi said that Mr. Rasheed made the flight and hotel bookings. He said he believes he paid him back with cash. Pressed for any records to support his recollection, he provided a bank statement showing a withdrawal of \$1,264.63 on November 7, 2022 and advised

that he used about \$1,000 of this withdrawal and cash he had on hand from a family member to repay Mr. Rasheed.

[596] Mr. Truesdell told me that he and Mr. Massoudi have been friends for years, and that he became friends with Mr. Rasheed after the 2018 election. He said he and Mr. Rasheed see each other daily when the legislature is in session, share meals and talk about birthdays and kids. Mr. Truesdell recalled that he initially talked about going to Las Vegas with Mr. Massoudi, and Mr. Rasheed decided to join them. He said they went to Las Vegas in December. He said he understood that Mr. Rasheed paid for the flight and tickets because, as a frequent traveller to Las Vegas, he had access to preferred pricing and hotel rooms. He explained that he had access to a large amount of cash because of personal and baby gifts around the Christmas 2019 season and that he believes he repaid Mr. Rasheed approximately \$2,000 in cash on or about January 2, 2020. He provided me with banking records indicating he made a large deposit in January 2020, to support his evidence that he had cash available to repay Mr. Rasheed.

[597] Mr. Truesdell said he did not see Mr. Rehmatullah in Las Vegas and does not recall Mr. Massoudi or Mr. Rasheed mentioning him at the time.

[598] Mr. Truesdell said he has met Mr. Rehmatullah five to 10 times, mostly at real estate industry events such as BILD dinners (although no specific dates were discussed). He said he first met Mr. Rehmatullah at a meeting at Queen's Park, while he was working for Minister Clark. He said Minister Clark's then-chief of staff Alex Beduz attended the meeting along with Mr. Rasheed and one of his staff. Mr. Truesdell indicated he believed that Mr. Rasheed had organized the meeting, its purpose was to discuss policy work being done on the provincial growth plan and that Mr. Rehmatullah was concerned about land that needed to be serviced by two municipalities. Mr. Truesdell said that it was possible that Mr. Rehmatullah had raised policy issues with him at events, but that they had never discussed any specific properties or the Greenbelt.

[599] Mr. Rasheed also told me that he is friends with Mr. Massoudi and Mr. Truesdell and that they made a plan to go to Las Vegas in December 2019, just after the legislature adjourned, as

Mr. Truesdell had recently finished his federal election campaign and there was an opportunity to go on a “boys’ trip” before his life was going to change with the arrival of a baby.

[600] Mr. Rasheed told me he booked the flights and hotel. He said that while he worked in the private sector for a tech company, he had been to Las Vegas many times for tech shows, but that he had only been there once, in December 2019, since being elected to the legislature. He provided me with an invoice from a travel agent for three flights to Las Vegas on December 6, 2019, returning December 8, 2019, indicating he paid \$4,550 in cash for the flights, including two at \$1,400 and one at \$1,750. He also provided an email from the Wynn Las Vegas hotel indicating he had booked three rooms, but he also advised that he could not find proof of payment for the hotel. He advised he contacted the hotel numerous times for assistance in obtaining proof of payment but received no response. He said he believes Mr. Truesdell and Mr. Massoudi paid him back. He searched for proof of payment and provided me with a December bank statement showing a deposit of \$2,000 on December 20, 2019. He advised he received \$1,000 each from Mr. Truesdell and Mr. Massoudi and cannot recall the particulars of how they repaid the balance of the monies owed for the trip.

[601] Mr. Rasheed said he has been close friends with Mr. Rehmatullah for many years, but has never gone to Las Vegas with him. He said he recalls seeing Mr. Rehmatullah in the lobby of the hotel in December 2019 and was shocked to see his friend there, and said to him “I thought you were going to be in China?” He also recalls saying something like “it’s good to see you.” Mr. Rasheed said he could not recall which day of the trip this occurred, but he recalled that Mr. Massoudi was there. He believes they may have been heading out to golf at the time. He said he did not make plans to see Mr. Rehmatullah later in Las Vegas as he was there “with his own people.”

[602] In December 2021, Mr. Rasheed took steps to put in place an ethics screen with respect to Mr. Rehmatullah. This occurred after I provided him with advice to put such a screen in place when it was disclosed to me that Mr. Rasheed’s wife worked for Mr. Rehmatullah. During his interview, Mr. Rasheed told me he recalls being asked to step out of a fall 2022 cabinet meeting

by a staff member of the Cabinet Office. While he was not told the subject of that Cabinet discussion, he now believes that was the meeting when the Greenbelt matter was discussed.

[603] Mr. Rasheed said he keeps his work as an elected official separate from his friendship with Mr. Rehmatullah and they do not talk about their work, except that he is aware of Mr. Rehmatullah's general request to "cut the red tape." Mr. Rasheed said he has no recollection of the meeting that Mr. Truesdell recalled (where Mr. Truesdell first met Mr. Rehmatullah). Following his interview, Mr. Rasheed searched his calendar and provided me with a calendar invitation for a meeting on February 26, 2019, for which Mr. Beduz was recorded as the organizer.

[604] Mr. Rehmatullah told me he has been to Las Vegas many times. He provided records indicating he was there from December 6 to 9, 2019 and January 31 to February 2, 2020 and stayed at the Wynn Las Vegas. He said he recalled meeting Mr. Rasheed in the hotel lobby on one of those trips. He said he believed Mr. Massoudi was there in the background, but did not recall seeing Mr. Truesdell.

[605] Mr. Rehmatullah said he did not mention meeting Mr. Massoudi in Las Vegas during his first interview with me, when he mentioned meeting him at the Ramadan event and a few other events, because his conversation in Las Vegas was with Mr. Rasheed, that he knows Mr. Rasheed and that he did not have a conversation in Las Vegas with Mr. Massoudi. He said he and Mr. Massoudi do not socialize and have never been to each other's homes. He said he did not seek any assistance from Mr. Massoudi while he was in government, and that he has not spoken to Mr. Massoudi about his new consulting business. He noted that he retained another lobbyist, Leith Coghlin, to assist him with some matters.

[606] Mr. Rehmatullah confirmed he is a long-time friend of Mr. Rasheed and that they and their families are close. He also told me that he has previously supported the Liberal candidate who ran against Minister Rasheed. This is confirmed by records received from Elections Ontario. Mr. Rehmatullah said he has told them both that he will be neutral going forward, as he is friends with both of them. Mr. Rehmatullah told me he does not discuss his work with Mr. Rasheed and Mr. Rasheed told him he cannot discuss anything and he should not bring anything up. Mr.

Rehmatullah did not recall meeting with Mr. Truesdell or Mr. Rasheed at Queen's Park but advised he has met Mr. Truesdell at events such as BILD events. Mr. Rehmatullah did recall meeting with Mr. Beduz at Queen's Park about the growth plan and provincial policy statement and said it was possible that Mr. Truesdell and Mr. Rasheed were there, but he does not recall because he was focused on Mr. Beduz.

Lobbying

[607] In her December 8, 2022 affidavit Ms. Stiles outlined her concerns regarding what she believed to be improper lobbying. She inferred that Luca Bucci, formerly chief of staff to Minister Clark from January, 2021, to April, 2022, was non-compliant with the *Lobbyists Registration Act, 1998*. Specifically, she stated that Mr. Bucci was selected as chief executive officer of the Ontario Home Builders' Association (OHBA) in June 2022, and registered on its behalf to lobby his former ministry – the Ministry of Municipal Affairs and Housing (MMAH). Ms. Stiles claimed that he should have waited for at least 12 months as a cooling-off period before lobbying his former employer, as cautioned by my Office's LRA Interpretation Bulletin #11.

[608] Ms. Stiles did not mention that as a former ministers' staff Mr. Bucci was also prohibited from lobbying any public servant in the MMAH for a period of 12 months by virtue of s.18 of the Conflict of Interest Rules set out in Ontario Regulation 382/07, pursuant to the PSOA.

[609] Ms. Stiles must not have appreciated that Mr. Bucci's registration was filed as the senior officer of the OHBA, which he was required to do under the LRA. It did not mean that he himself was going to lobby the MMHA, only that the organization would be, through its in-house lobbyists named in the registration. Unfortunately, Ms. Stiles was also unaware that the registration contained the following note:

Mr. Bucci has not and will not lobby (i) the Minister of Municipal Affairs and Housing, (ii) the Office of the Minister of Municipal Affairs and Housing, and/or (ii) the Ministry of Municipal Affairs and Housing, until at least April 1, 2023.

[610] In the circumstances there was nothing wrong with Mr. Bucci registering as he did. In fact he was required by law to file it on behalf of his new employer since he was its senior officer.

[611] Ms. Stiles alleged that Mr. Bucci appeared twice before the Standing Committee on Heritage, Infrastructure and Cultural Policy on behalf of the OHBA in support of Bill 23, the *More Homes Built Faster Act* on November 10, 2022 and on December 1, 2022 in support of Bill 39, the *Better Municipal Governance Act*. I note that Mr. Bucci's former minister is not a member of this legislative committee and the committee is an entity separate from his former ministry, meaning that his lobbying prohibition under the Conflict of Interest Rules does not apply to this activity. There is also an exception in section 3(2)(a) of the *Lobbyists Registration Act, 1998* to the usual requirement for registration for submissions "that are a matter of public record to a committee of the Legislative Assembly." Another subsection, 3(2)(c), provides an exemption from registration where the submission to the public office holder is in direct response to a written request from the public office holder (including a member or staff of a committee of the Legislative Assembly) for advice or comment.

[612] There is a passage in the Auditor General's recent Greenbelt report³⁵ on the general role of lobbying which strikes me as being a bit too negative. It states:

The private interests that lobbyists are paid to advance can be at odds with the public's interests. Thus lobbying has the potential to influence government to make decisions that do not represent the interests of the majority.

[613] While that potential does exist, the statement does not recognize the positive benefits that lobbying can produce for the public good. I prefer the position outlined by Professor Lori Turnbull, director of the School of Public Administration at Dalhousie University in the January 20, 2021 edition of *The Hill Times*:

Professional lobbyists have an important role to play in this discussion. As paid policy advocates whose job is to influence government decisions on behalf of a person, corporation, or other organization, lobbyists are experts in navigating government. They know where the points of access are in the policy process and they have the knowledge and expertise to affect that process in positive ways. Sometimes, the profession of lobbying is criticized for being overly representative of and responsive to powerful corporate interests. The image of the monied oil and gas lobby looms large here.

³⁵ Office of the Auditor General of Ontario, *Special Report on Changes to the Greenbelt* at p.65

Obviously, wealthy individuals and organizations might have a greater capacity to pay lobbyists; however, the work of Canadian lobbyists is varied and spans a range of perspectives, interests, and realities. To the extent that the activities of lobbyists bring a variety of perspectives to light, including those of vulnerable populations, it adds value to the policy process and makes a positive contribution to the public good.

Lobbying is often treated with suspicion as a behind-closed-doors phenomenon available only to a privileged few with personal and professional connections to the political class. When a lobbyist does wrong, it makes the entire industry look bad. However, as we move out of the crux of the pandemic into a rebuilding phase, we know that questions about the role of the state are in play and that lobbyists bring much to the conversation. Lobbying is recognized by the Government of Canada, the Organisation for Economic Co-operation and Development, and by many organizations and individuals as a legitimate, valuable part of our democratic process.³⁶

[614] Both the Auditor General and Professor Turnbull recognize the importance of regulating lobbying to ensure that it is performed ethically and transparently. There is, however, a great deal of lobbying done by employees and officers who actively lobby for their companies, firms or organizations but are not required to register unless collectively their entity has lobbied for 50 hours in a 12-month period. A lot of lobbying can be done in 49 hours but will never see the light of day on the public registry. As Lobbyist Registrar I have started many investigations into unregistered lobbying by in-house lobbyists, only to have to cease the investigation when it becomes apparent from the evidence that the high bar of 50 hours was not reached.

[615] I am also concerned about the lack of teeth in the LRA. For instance, if I do find that someone has been performing unregistered lobbying I can name that person and prohibit them from lobbying for up to two years. Since they have not been registered in the first place the deterrent effect of such a disposition is questionable. Other jurisdictions provide for monetary penalties which would be more effective.

³⁶ Lori Turnbull, "Lobbying for a better post-COVID Canada," *The Hill Times* (January 20, 2021), online: <https://www.hilltimes.com/story/2021/01/20/lobbying-for-a-better-post-covid-canada/268397/>

The Public Service of Ontario Act, 2006

[616] Specifically with the PSOA, there are a number of inadequacies I have identified in my annual reports and in s.31 reports under the *Members' Integrity Act*. A few years ago, I dealt with some cases where ministers were alleged to have directed their staff to conduct political fundraising with stakeholders during office hours and using government equipment. The allegations were not proven but if they had been, in relation to the ministers' staff involved all I could do under the PSOA would be to report the staffer to their minister, who ordered them to do the activity in the first place.

[617] One of Minister Clark's submissions as to why I should not attribute staff misconduct to the minister is that there is a separate scheme in the PSOA to address that staffer's misconduct so there is no need to make ministers automatically answerable for their staffs' conduct. I reject this position since it undermines the integrity of our system of accountability for members of provincial parliament. As can be seen from the example above relying on the PSOA where any inquiry would refer the matter back to the minister may be ineffective. Besides, Part IV of the PSOA has been held to be part of an employment-oriented ethics regime and does not contain a public complaints mechanism.³⁷ This does not mean that there should not be improvements to the PSOA, only that they should not replace the accountability measures set out in the MIA for MPPs.

[618] I have long advocated onboarding training, refresher training and ongoing training of new staff, given the large turnover in ministers' staff within the election cycle. While it is the minister's responsibility under the PSOA to ensure that staff are familiar with the Conflict of Interest Rules and to promote ethical conduct by their staff, my Office has offered and provided extensive training opportunities to newly hired and existing ministers' staff in the past and is prepared to assist any initiative in this regard.

[619] An example of why training is necessary can be seen in this report. Minister Clark's deputy chief of staff met a lobbyist for lunch. The lobbyist paid. He discussed work related to MZO

³⁷ *Democracy Watch v. Ontario Integrity Commissioner*, 2020 ONSC 6081.

requests for clients with this public office holder and asked her to provide a package to her boss, Ryan Amato. Unknown to her the package contained information supporting his client's request for land to be removed from the Greenbelt. The gift of the lunch may have seemed like a low-cost event to her but it was a high stakes event for the lobbyist, who stood to gain \$1,000,000 if his client's Greenbelt removal request was successful and municipal approvals were subsequently obtained. The land was one of the properties removed from the Greenbelt. This evidence places the low-cost/high stakes lunch in a different perspective. It is why there is a gift rule in the Conflict of Interest Rules and why any gift, no matter how low its value, must be carefully examined, especially lunches from stakeholders and lobbyists.

The Members' Integrity Act, 1994

[620] I have suggested in my most recent annual report³⁸ that the Legislative Assembly review the statute that governs MPP conduct and have pointed to some specific areas they might consider.

[621] In my annual reports I have set out my concerns with respect to all three of these statutes (as well as the ones covering my other mandates), so I join with the Auditor General in recommending that there be a comprehensive review of the LRA, the PSOA and the MIA. I am encouraged by the government's initial response to this recommendation.

VIII. CONCLUSION

[622] I should be clear that my jurisdiction under the Act does not extend to enforcing "ministerial responsibility", a constitutional principle whereby ministers are responsible to parliament and the public for everything that happens in their ministries. As I have indicated in a previous report,³⁹ the *Members' Integrity Act* concerns members' compliance with rules set out

³⁸ See Commissioner's Message, Office of the Integrity Commissioner of Ontario, Annual Report 2022-2023.

³⁹ See the Bethlenfalvy Report at para 271: "Ministerial responsibility is a constitutional principle in the British Westminster parliamentary system. According to this principle, ministers are responsible to the parliament for the conduct of their ministry and government as a whole. Ministerial responsibility ensures the accountability of the government to the legislature and thus, ultimately, to the population," referencing; Ken Kernaghan, "Ministerial Responsibility: Interpretations, Implications and Information Access" (August 2001); André Munro, "Ministerial

in the legislation and developed through parliamentary convention. In some cases, a member may be found in breach of the Act or parliamentary convention because of the mistakes of their staff. However, this will only be the case where the member engaged – through action or inaction – in blameworthy conduct.

[623] It is my opinion that Minister Clark has contravened both sections 2 and 3(2) of the Act.

[624] Section 34 of the Act deals with penalties. It provides:

34 (1) Where the Commissioner conducts an inquiry under subsection 31 (1) or (2) and finds that the member has contravened any of sections 2 to 4, 6 to 8, 10 to 12 or 14 to 18, has failed to file a private disclosure statement or a statement of material change within the time provided by section 20, has failed to disclose relevant information in that statement or has contravened Ontario parliamentary convention, the Commissioner shall recommend in his or her report,

(a) that no penalty be imposed;

(b) that the member be reprimanded;

(c) that the member's right to sit and vote in the Assembly be suspended for a specified period or until a condition imposed by the Commissioner is fulfilled; or

(d) that the member's seat be declared vacant.

[625] Minister Clark has publicly acknowledged that there were problems with the process used to remove lands from the Greenbelt but has not expressed any remorse for his own role in this affair. I believed Minister Clark when he told me that he was unaware of that process. That belief is consistent with the totality of the evidence gathered in this inquiry. However, rather than being exclusively a mitigating factor when it comes to penalty I find that his lack of awareness was also an aggravating element since he should have provided greater supervision and control over this significant undertaking entrusted to his ministry. The lack of that oversight led to the unfortunate results set out in this report.

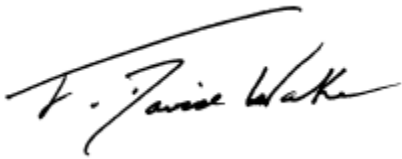
responsibility", Encyclopaedia Britannica, Inc. (23 November 2016); David E. Smith, "Clarifying the Doctrine of Ministerial Responsibility as It Applies to the Government and Parliament of Canada" in Restoring Accountability - Research Studies, Vol.1 Parliament, Ministers and Deputy Ministers, Commission of Inquiry into the Sponsorship Program and Advertising Activities, 101-43. Ottawa: Public Works and Government Services, 2006 at 104.

[626] I appreciate that there will be a political price to be paid by Minister Clark as a result of the findings of this report. I also acknowledge that Minister Clark has never before been the subject of an inquiry under the Act. In all the circumstances I am satisfied that a recommendation that the Legislative Assembly impose a reprimand by accepting this recommendation would be a sufficient penalty to be imposed at this time.

[627] The Act requires that the Assembly consider and respond to this report including my recommendation within 30 days after the day the report is laid before it.

[628] The *Greenbelt Act* provides that there shall be another 10-year review in 2025 to determine whether it should be revised. I sincerely hope that the experience of the exercise to remove lands from the Greenbelt as set out in this report will be used to inform that review and any subsequent process affecting these lands.

Dated at Toronto this 30th day of August, 2023.

A handwritten signature in black ink, reading "J. David Wake". The signature is written in a cursive style with a prominent horizontal stroke at the top.

J. David Wake, K.C.
Integrity Commissioner

Appendix A:

Interviews and Written Interrogatories
Interviews (both in-person/virtual under oath/affirmation and telephone)

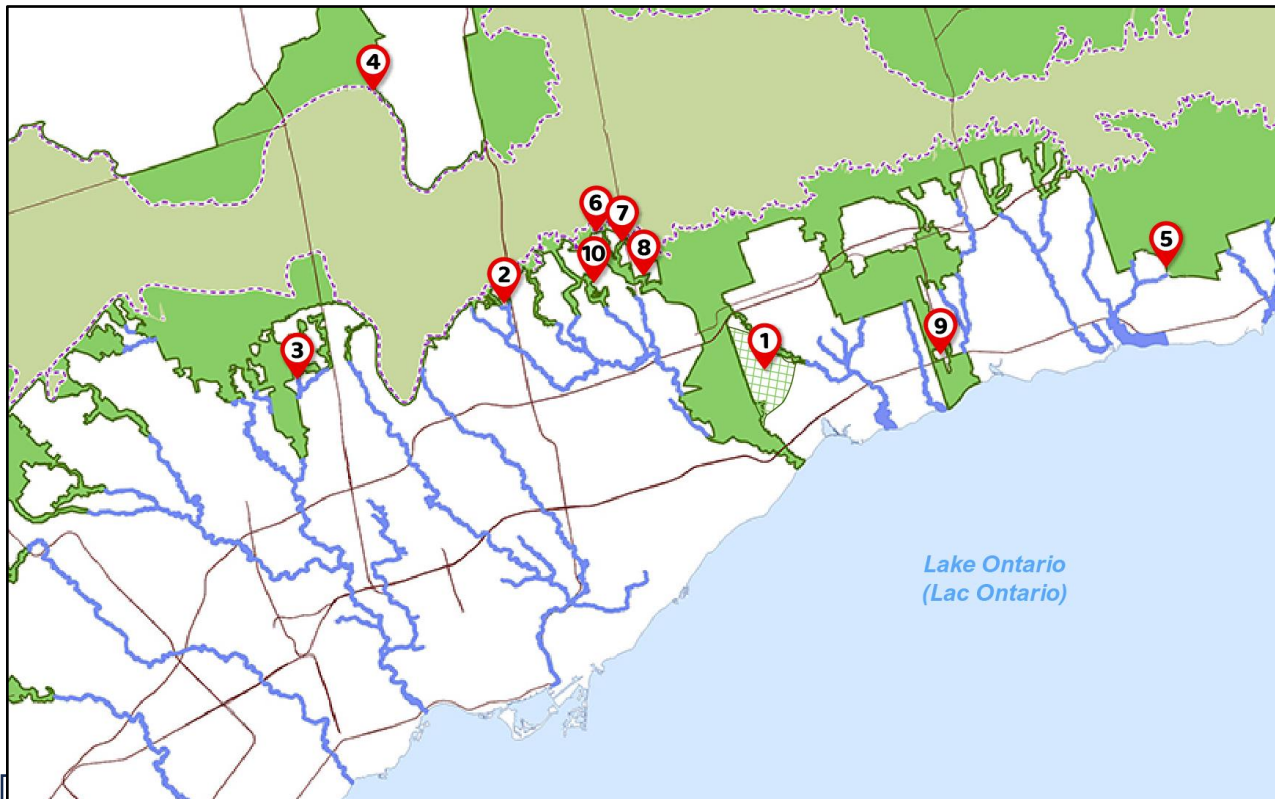
Witness Name	Position	Legal Counsel
Amato, Ryan	Chief of Staff, Minister's Office, Ministry of Municipal Affairs and Housing	Paul Michell and Katelyn Johnstone <i>Lax O'Sullivan Lisus Gottlieb LLP</i>
Ariens, John	Associate Director, Practice Lead- Planning at IBI Group	
Bucci, Luca	Chief Executive Officer at Ontario Home Builders' Association	Jason Beitchman <i>Loopstra Nixon LLP</i>
Chan, Paul	Accountant at Paul Chan Professional Corporation	
Chang, Mitchell	President, Partner and Sales Representative at CF Realty	
Clark, Steve (Hon.)	Minister of Municipal Affairs and Housing	Fredrick Schumann and Brian Gover <i>Stockwoods LLP</i>
Coghlin, Leith	Managing Director at EnPointe Development Inc.	Tamara Kronis <i>Ross & McBride LLP</i>
Collins-Williams, Michael	Chief Executive Officer at West End Home Builders' Association	
Corbett, John	President at Corbett Land Strategies	
Crawford, Liam	Planner at City of Pickering	
De Gasperis, Alana	Director of Planning and Corporate Affairs at TACC Developments	Colin Stevenson <i>Stevenson Whelton Barristers</i>
De Gasperis, Silvio	President at TACC Group	Colin Stevenson <i>Stevenson Whelton Barristers</i>
Deveaux, Steve	Vice President, Land Development at Tribute Communities	Alexis Levine <i>Blake, Cassels & Graydon LLP</i>
Dill, Paula	Provincial Land and Development Facilitator, Office of the Provincial Land and Development Facilitator (Municipal Affairs and Housing)	
Dong, John	Sales Representative at Homelife New World Realty Inc., Brokerage	
Doracin, Diana (Betlej)	Counsel at Dentons Canada	

Witness Name	Position	Legal Counsel
Eisenberger, Jack	President at Fieldgate Commercial Properties Ltd.	Guy Giorno <i>Fasken Martineau DuMoulin LLP</i>
Evans, Hannah	Assistant Deputy Minister, Municipal Services Division, Ministry of Municipal Affairs and Housing	Lisa Brost <i>Crown Law Office Civil</i>
Fidani-Diker, Nico	Principal at ONPoint Strategy Group	Alexis Levine and Laura Dougan <i>Blake, Cassels & Graydon LLP</i>
Ford, Doug (Hon.)	Premier of Ontario	Gavin J. Tighe, K.C. <i>Gardiner Roberts LLP</i>
Fraser, Sean	Assistant Deputy Minister, Planning and Growth Division, Ministry of Municipal Affairs and Housing	Brent McPherson <i>Crown Law Office Civil</i>
Fuller, Shannon	Deputy Minister, Policy and Delivery at Cabinet Office	
Hock, Devin	Ecology and Water Resources Specialist at GeoProcess Research Associates	Charles Gibson and Lucas Cutler and Tiana St-Amour-Poitras (Student at Law) <i>Vincent Dagenais Gibson LLP</i>
Jensen, Kirstin	Deputy Chief of Staff, Minister's Office, Ministry of Municipal Affairs and Housing	John Mascarin <i>Aird & Berlis LLP</i>
Johnston, Matt	Principal at Urban Solutions Planning & Land Development Consultants Inc.	Pamela Green <i>KPMG Law</i>
Kostopoulos, Daniel	Chief Administrative Officer, Township of King	
Lam, Michael	Accountant at Paul Chan Professional Corporation	
Lennon, Cathy	General Manager at Ontario Federation of Agriculture	
Lingren, Hannah	Planner, Provincial Policies and Planning Unit, Ministry of Municipal Affairs and Housing	
Lu, Yuchen	Director of 2615898 Ontario Ltd., registered owner of 775 Kingston Road East Ajax as of January 17, 2018	
MacDonald, Anna	Director, Land Use Plans Branch, Ministry of Municipal Affairs and Housing	Sonal Gandhi <i>Crown Law Office Civil</i>

Witness Name	Position	Legal Counsel
Manchia, Sergio	Principal at Urban Solutions Planning & Land Development Consultants Inc.	Pamela Green <i>KPMG Law</i>
Manson-Smith, Kate	Deputy Minister, Ministry of Municipal Affairs and Housing	Alexandra Clark <i>Crown Law Office Civil</i>
Massoudi, Amin	Principal at Atlas Strategic Advisors Inc.	Jonathan Nehmetallah <i>McCarthy Tetrault</i> and thereafter Scott Hutchison and Katrina Crocker <i>Henein Hutchison Robitaille LLP</i>
McDonnell, Edward	Chief Executive Officer at Greenbelt Foundation	
McGovern, John	Senior Vice-President, Policy & Planning at Rice Group	Guy Giorno <i>Fasken Martineau DuMoulin LLP</i>
Miele, Tony	Chair at PC Ontario Fund	Paul Michell and Katelyn Johnstone <i>Lax O'Sullivan Lisus Gottlieb LLP</i>
Mildon, James	Vice President, Industrial & Office at Cushman & Wakefield	Linda Kardum, <i>Cushman & Wakefield ULC</i>
Paikin, Jeff	President and co-founder at New Horizon Development Group	
Paletta, Paul	President & Chief Executive Officer, Owner at Alinea Group Holdings Inc	Isaac Tang <i>Borden Ladner Gervais LLP</i>
Pellegrini, Steve	Mayor, Township of King	
Pitblado, Dave	Director, Real Estate Development at Alinea Group Holdings Inc	Isaac Tang <i>Borden Ladner Gervais LLP</i>
Quinto, Berardino	Principal at Orca Equity Ltd.	William Friedman <i>Friedmans Law Firm</i>
Rasheed, Kaleed (Hon.)	Minister of Public and Business Service Delivery	Joseph Markson <i>Markson Law</i>
Rashidi, Mariam	Executive Assistant, Deputy Minister's Office, Ministry of Municipal Affairs and Housing	Christopher P. Thompson <i>Crown Law Office Civil</i>
Rasouli, Mojgan	Senior Planner at Bousfields Inc.	[Automated response received that witness on long-term leave, no evidence obtained.]

Witness Name	Position	Legal Counsel
Rehmatullah, Shakir	Chief Executive Officer at Flato Developments	Mary Ellen Bench <i>Dentons Canada</i>
Rice, Michael	Chief Executive Officer at Rice Group	Guy Giorno <i>Fasken Martineau DuMoulin LLP</i>
Sackville, Patick	Chief of Staff to the Premier, Office of the Premier	Paul Michell and Katelyn Johnstone <i>Lax O'Sullivan Lisus Gottlieb LLP</i> and thereafter Don Fawcett, K.C. <i>Cabinet Office</i>
Schickedanz, Bob	Partner at Farsight Homes	Nicholas A. Richter Barrister & Solicitor
Shindruk, Cheryl	Executive Vice-President, Land Development at Geranium Homes	Jeff Shankman <i>Shankman Law Professional Corporation</i>
Sidnell, Andrew	Vice President, Special Situations at Kingsdale Advisors	
Sliwa, Katarzyna	Counsel at Dentons Canada	
Sugden, Evan	Senior Planner at Bousfields Inc.	
Tanenbaum, Peter	President at Nash Road Developments Inc.	Michael Wilson, K.C. <i>Goodmans LLP</i>
Taylor, John M.	Planner, Provincial Policies and Planning Unit, Ministry of Municipal Affairs and Housing	
Truesdell, Jae	Director of Policy, Housing, Office of the Premier	Alexis Levine <i>Blake, Cassels & Graydon LLP</i>
Van Loan, Peter (Hon.), K.C.	Lobbyist and Counsel at Aird & Berlis LLP	
Wallace, Jamie	Chief Executive Officer of Supply Ontario	
Wang, Weixiang	President at Wyview Group	William Friedman <i>Friedmans Law Firm</i>
West, Emma	Partner at Bousfields Inc.	
Yang, Lily	Vice-President at Wyview Group	William Friedman <i>Friedmans Law Firm</i>

Appendix B: Map 1

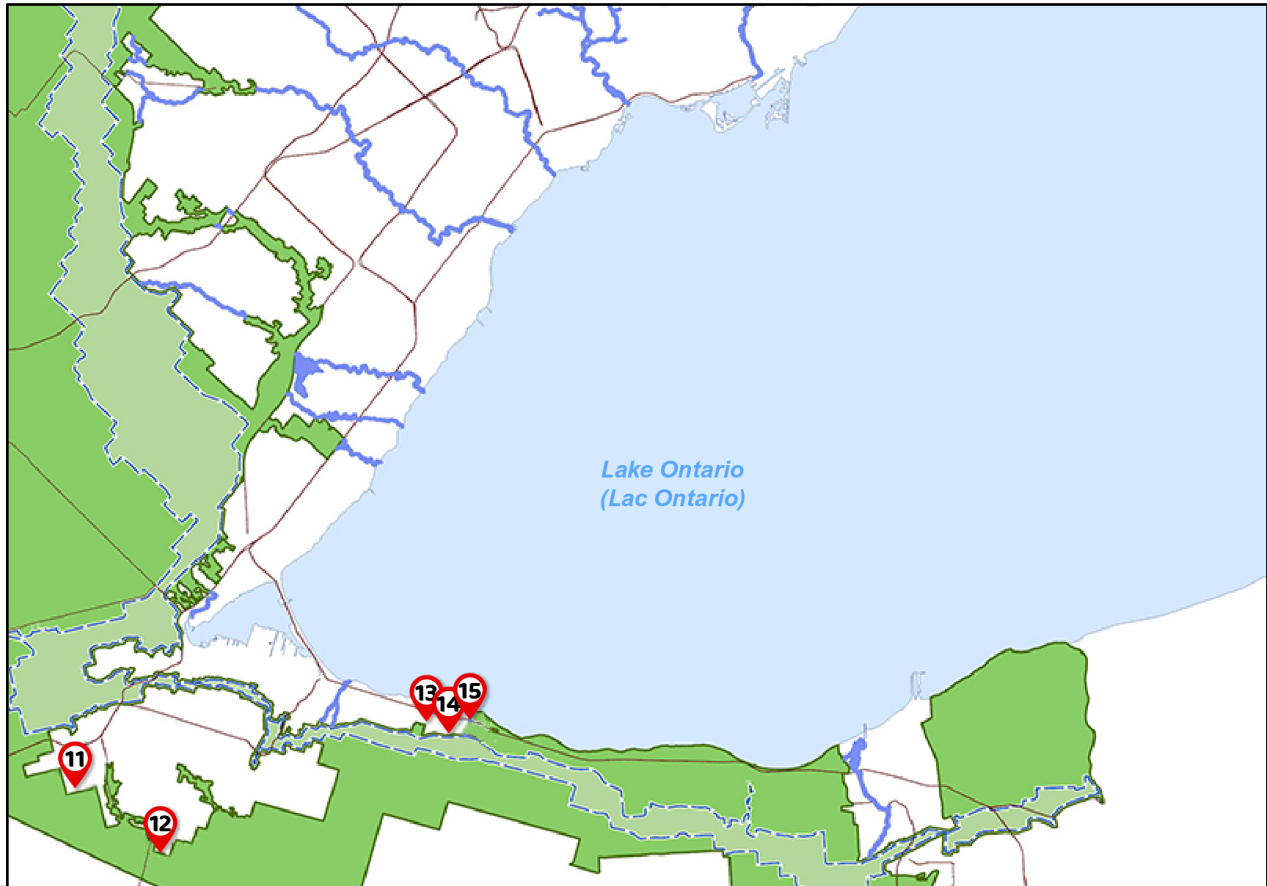


Legend

- | | |
|---|--|
| <p>1. Cherrywood, Pickering
Size: 4,262 acres
Requestor: TACC Developments</p> | <p>6. 5662 & 5474 19th Ave, Markham
Size: 10 acres
Requestor: Flato Developments Inc.</p> |
| <p>2. Leslie St/Elgin Mills Rd East, Richmond Hill
Size: 15 acres
Requestor: TACC Developments</p> | <p>7. 11861 & 12045 McCowan Rd, Whitchurch-Stouffville
Size: 13 acres
Requestor: Orca Equity Ltd.</p> |
| <p>3. “Block 41” Teston Rd/Pine Valley Dr, Vaughan
Size: 15 acres
Requestor: TACC Developments</p> | <p>8. Hwy 48 & Ninth Line, Markham
Size: 89 acres
Requestor: Wyview Group</p> |
| <p>4. Bathurst St, King Township
Size: 654 acres
Requestor: Green Lane Bathurst – Rice Group</p> | <p>9. 755 Kingston Rd East, Ajax
Size: 133 acres
Requestor: <i>unknown</i></p> |
| <p>5. Nash Rd, Clarington
Size: 86 acres
Requestor: Nash Road Development Inc.</p> | <p>10. Minotar Property, Kennedy Rd, Markham
Size: 37 acres
<i>Property put forth by ministry</i></p> |

Note: Locations are approximate

Appendix C: Map 2



Legend

11. Book Rd, Hamilton

Size: 1,837 acres

Requestor: TACC Developments

12. Mount Hope, Hamilton

Size: 167 acres

Requestor: Penta Properties

13. Barton St, Hamilton

Size: 10 acres

Requestor: Avatar International;
1800615 Ontario Ltd.

14. Cline Rd, Grimsby

Size: 78 acres

Requestor: Elda & Lucy Faiella

15. Winston Rd, Grimsby

Size: 15 acres

Requestor: New Horizon Development
Group

Note: Locations are approximate

