



**“When You Talk - We Listen!”**



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

December 2nd, 2019

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APPEARANCES

Kate McGrann ) Inquiry Counsel  
John Mather ) Associate Inquiry  
Max Libman ) Counsel  
(No Counsel) (np) ) For Paul Bonwick  
George Marron (np) ) For Sandra Cooper  
Frederick Chenoweth (np) ) For Edwin Houghton  
William McDowell ) For Town of Collingwood  
Ryan Breedon )  
Andrea Wheeler (np) )

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1 --- Upon commencing at 12:33 p.m.

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3 LOBBYING PANEL:

4 SUZANNE CRAIG

5 LINDA GEHRKE

6 ROBERT MARLEAU (by phone)

7

8 DISCUSSION

9 MR. JOHN MATHER: Our final panel will  
10 be on the topic of lobbying. Joining us this  
11 afternoon are Linda Gehrke and Suzanne Craig in  
12 person. Robert Marleau is joining us by phone from  
13 Ottawa as a result of some of the snow we've recently  
14 got.

15 As before, detailed biographies of each  
16 of our panelists are available online, but by way of  
17 brief background I'll start with Ms. Gehrke.

18 Ms. Gehrke served as the Lobbyist  
19 Registrar for the City of Toronto from 2008 to 2016.  
20 She currently serves as a part-time Vice-Chair of the  
21 Workplace Safety and Insurance Appeals Tribunal,  
22 having served as a full-time Vice-Chair from 1998 to  
23 2008.

24 Ms. Gehrke is a faculty member of the  
25 Society of Ontario Adjudicators, and she has received

1 the SOAR medal from that society, as well as a Law  
2 Society medal for her contributions to administrative  
3 justice and public service.

4                   Suzanne Craig has twenty (20) years of  
5 experience in provincial and municipal agencies,  
6 board, and commissions. In 2005, Ms. Craig was  
7 appointed Director of Corporate Access and Privacy for  
8 the City of Toronto. In 2009, Ms. Craig was appointed  
9 Integrity Commissioner for the City of Vaughan and has  
10 served as Integrity Commissioner to over twenty (20)  
11 Ontario municipalities.

12                   Ms. Craig was also appointed the first  
13 Integrity Commissioner of the Toronto District School  
14 Board. With respect to lobbying, Ms. Craig has also  
15 served as the Lobbyist Registrar of the City of  
16 Vaughan.

17                   Finally, joining us on the phone is  
18 Robert Marleau. Mr. Marleau is currently the  
19 Integrity Commissioner, Lobbyist Registrar, and  
20 Meetings Investigator of the -- at the City of Ottawa.

21                   Prior to this, Mr. Marleau had an  
22 extensive career in Federal Parliament. Among other  
23 things, Mr. Marleau served as Clerk of the House of  
24 Commons, Information Commissioner of Canada, and  
25 Senior Advisor to the Speaker of the House. Mr.

1 Marleau is the Co-Editor of the House of Commons  
2 Procedure and Practice, and he was awarded the Order  
3 of Canada in 2017.

4 With that, I'll turn the presentation  
5 portion over to Ms. Gehrke.

6 MS. LINDA GEHRKE: Thank you, Mr.  
7 Mather, and thank you Justice Marrocco and Inquiry  
8 counsel for inviting us to participate in this poly --  
9 policy panel on lobbying. It is an honour and a  
10 privilege to be here, and we hope that our comments  
11 will be helpful to you in this Inquiry.

12 With your permission, the Lobbying  
13 Panel will proceed as follows. Each of us will give  
14 brief opening remarks, and then we will discuss the  
15 PowerPoint slides that we have prepared, and that will  
16 be kind of a round-robin discussion among us. Please  
17 feel free to jump in with questions as we go along.  
18 We -- we hope it will be a -- a conversation as much  
19 as it is a presentation.

20 In my opening mar -- remarks, I will  
21 introduce the role of Lobbyist Registrar within  
22 Toronto's municipal accountability framework.  
23 Following the recommendations of the Honourable Madam  
24 Justice Denise Bellamy in her groundbreaking report on  
25 the Toronto Computer Leasing Inquiry and Toronto

1 External Contracts Inquiries, the Province enacted the  
2 City of Toronto Act 2006 and amended the Municipal Act  
3 2001.

4                   These acts provide that the City of  
5 Toronto must, and all Ontario municipalities may,  
6 establish a municipal lobbyist registry. Both acts  
7 authorize all Ontario municipalities, including  
8 Toronto, to provide a lobbyist registration system  
9 which includes a lobbyist registry and a code of  
10 conduct for lobbyists.

11                   The municipality has the authority to  
12 define lobby, require persons who lobby public  
13 officeholders to register, specify the returns to be  
14 filed and the information to be given, exempt persons  
15 from registration, establish a code of conduct for  
16 lobbyists, prohibit public -- former public  
17 officeholders from lobbying current public  
18 officeholders for a period of time, prohibit a person  
19 from lobbying public officeholders without being  
20 registered, prohibit lobbyists from receiving  
21 contingency or success fees, impose conditions for  
22 registration, continued registration or renewal of a  
23 registration, and refuse to register a person or  
24 suspend or revoke a registration.

25                   All Ontario municipalities, including



1 Toronto, are authorized to appoint a lobbyist  
2 registrar who is responsible for performing in an  
3 independent manner, the duties and functions assigned  
4 to him or her by the municipality, and performs  
5 basically an oversight function over the registry and  
6 the code of conduct, as well as providing advice and  
7 interpretation and monitoring and enforcing the  
8 registry system and the code -- the lobbyist registry  
9 and the code of conduct.

10                   The City of Toronto Act and the  
11 Municipal Act both provide that if a registrar  
12 conducts an inquiry about compliance with the -- the  
13 registry or code of conduct, that the registrar may  
14 elect to exercise powers under Sections 33 and 34 of  
15 the Public Inquiries Act, and the registrar is subject  
16 to the same duties of confidentiality as an integrity  
17 commissioner -- commissioner when conducting such  
18 inquiries.

19                   The -- the -- the registrar makes their  
20 report -- report on an inquiry to the municipality  
21 about the inquiry in public, and the municipality is  
22 required to make that report public.

23                   Toronto adopted its lobbying bylaw in  
24 2007 and appointed a lobbyist registrar as it was  
25 required to do. These were firsts in Canada, and the

1 mandate and duties of -- of Toronto's lobbyist  
2 registrar are set out in both the accountability  
3 officers' bylaw and the lobbyist registration bylaw.

4                   The -- the lobbyist registrar is one  
5 (1) -- in Toronto is one (1) of four (4)  
6 accountability officers. The accountability officers  
7 report directly to City Council. They are independent  
8 of City administration and subject to the chapter --  
9 the accountability bylaw. They are fully responsible  
10 and accountable for their offices.

11                   The lobbyist registrar is required to  
12 report annually to council on the activities of her  
13 office, and the term of the -- term of office for a  
14 lobbyist registrar in Toronto under the accountability  
15 bylaw in seven (7) -- seven (7) years nonrenewable, so  
16 it's a fixed term and it's nonrenewable.

17                   Effectively, the City of Toronto Act,  
18 together with the accountability officers' bylaw and  
19 the lobbying bylaw, provide a comprehensive framework  
20 and a mandate to regulate lobbying at the City.

21                   I'd be happy to answer any questions as  
22 we go along about these remarks, and I will now turn  
23 to Robert, is he is on the line.

24                   MR. ROBERT MARLEAU (BY PHONE): I'm on  
25 the line. Can you hear me okay?

1 MS. LINDA GEHRKE: Yes.

2 MR. ROBERT MARLEAU (BY PHONE): Thank  
3 you and I'd like to thank the Inquiry and Mr. Justice  
4 Marrocco for the invitation and it is an honour to be  
5 here and, hopefully, maybe make some small  
6 contribution to the important material and any  
7 outcomes of what could be of great importance across  
8 the province, particularly, for small municipalities.

9 Just briefly by way of introduction,  
10 the City of Ottawa adopted its lobbying bylaw in 2012,  
11 along with most of its accountability framework which  
12 was followed by a code of conduct board councillors  
13 and preceded by disclosures -- disclosure of expenses  
14 of councillors as part of that accountability  
15 framework.

16 I would like to stress when I make my  
17 presentations to the public that the City of Ottawa  
18 was one (1) of the few -- well, it was only the second  
19 city in the province to adopt the lobbyist registry,  
20 and also did so without the scandal of a back --  
21 without the backdrop of a scandal. It was a voluntary  
22 and I think a very positive affirmative action taken  
23 by all of council back in 2012.

24 I was then appointed the Integrity  
25 Commissioner, the Lobbyist Registrar, and the Meetings

1 Investigator. I am one (1) of the few in the province  
2 that holds all three (3) mandates. I'm independent of  
3 the administration and report directly to council. I  
4 believe the Integrity Commissioner for the Province of  
5 Ontario, David Wake holds a similar mandate.

6                   And what I wanted to underline on that  
7 is I think that it is a pretty good model for smaller  
8 communities to look at. In the city of Toronto, like,  
9 Linda had just alluded to under COTA, there are four  
10 (4) accountability officers and that -- that fell from  
11 the -- the Bellamy Inquiry in terms of  
12 recommendations.

13                   The advantage of a three-in-one  
14 commissioner is that we have in the City of Ottawa, so  
15 code of conduct for councillors and a code of conduct  
16 for lobbyists and both refer to the interactions with  
17 each other, and it allows the commissioner -- the  
18 Integrity Commissioner to follow up on complaints  
19 about councillors who might be interacting with  
20 lobbyists and not reporting that interaction, and vice  
21 versa, lobbyists interacting with -- with councillors  
22 who may be in breach of their own code of conduct.

23                   The City of Ottawa's bylaw, I think,  
24 represents a fairly simple approach to lobbying  
25 registration. There is no pre-registration required.

1 The onus is on the lobbyist to register online within  
2 fifteen (15) days any activity that is captured by the  
3 bylaw.

4                   It is allowable to lobby in all  
5 circumstances. It could be at the office, at a  
6 community barbeque, a wine and cheese. It doesn't  
7 matter where the lobbying takes place. The bylaw does  
8 not interfere with what I would call the national  
9 process of politics. It's two (2) consenting adults,  
10 one (1) councillor, one (1) lobbyist decide to engage  
11 in a lobbying conversation that's allowed on  
12 circumstances. It has to be reported within fifteen  
13 (15) days by the lobbyist and the councillor needs to  
14 verify within thirty (30) days that registration took  
15 place.

16                   The sanctions under the Ottawa bylaw  
17 are also fairly simple. There's a progressive sort of  
18 discipline ban for violations by lobbyists. They  
19 could be banned for two (2) months, three (3) months  
20 on repeat offences any period that the lobby registrar  
21 may choose.

22                   But I've also introduced, while not  
23 under the bylaw, but under my authority to enforce and  
24 investigate, I've introduced a couple of tools in the  
25 tool box. One (1) is called a compliance agreement,

1 where a lobbyist in violation makes a declaration of -  
2 - of breach in advance or otherwise, agrees to comply  
3 in the future. I agree not to cause an investigation  
4 and we post it online.

5                   It's a concept that's used in other  
6 jurisdictions since an electoral commissioner, the  
7 Federal electoral commissioner and privacy  
8 commissioner, and I also believe that the Nunavut  
9 Integrity Commissioner has compliance agreements as a  
10 tool.

11                   The other more recent things I  
12 introduced are called letters of direction, where in  
13 minor violations, oversights, so late registrations,  
14 minor late registrations, I will simply write a letter  
15 of direction to the lobbyist.

16                   But there are also opportunities to  
17 send letters of direction to their clients, who may --  
18 over whom I have no direct authority. But I can  
19 inform clients of their lobbyist being in -- in a  
20 breach or potential breach and I found those last two  
21 (2) tools quite efficient.

22                   I'll leave it at that for now and turn  
23 it over to Suzanne.

24                   MS. SUZANNE CRAIG: Good afternoon. I  
25 echo my colleagues in saying that it is truly an

1 honour for me to be here, before this panel, and you  
2 Mr. Justice Marrocco, to provide policy comments to  
3 assist in making recommendations.

4                   At the completion of the Bellamy  
5 Inquiry, after having spent years at the Province of  
6 Ontario, I started with the City of Toronto and saw  
7 first-hand the building of Toronto's accountability  
8 regime.

9                   At the completion of the Mississauga  
10 Inquiry, I was establishing the City of Vaughan's  
11 first office of the Integrity Commissioner, and ten  
12 (10) years later at the City of Vaughan I now hold the  
13 dual role of appointed integrity commission and  
14 lobbyist registrar.

15                   The City of Vaughan had a graduated  
16 approach to a mandatory regime in 2017. There was the  
17 advent of the voluntary lobbyist registry, there was  
18 preparation through consultations with businesses,  
19 with staff and with members of council. And in 2018 I  
20 was appointed lobbyist registrar and the mandatory  
21 regime came into effect.

22                   It's been my experience that there is  
23 an ethical link between effective integrity regimes  
24 and members of council and their code of conduct.

25                   The integrity of a member of council

1 should not rest solely on their decision to follow  
2 rules, although our default is to understand that they  
3 do act with ethics and integrity. In the absence of  
4 an ethical compliance framework, a municipality's  
5 legal and reputational risk is high.

6                   What we've seen throughout Canada at  
7 the Federal and Provincial and Municipal level is that  
8 lobbying is one (1) way that stakeholders can help  
9 public office holders make informed decisions. That  
10 has been my experience at the City of Vaughan.

11                   When transparent to the public and in  
12 accordance with a bylaw, lobbying public office  
13 holders of a city or town is a legitimate activity.  
14 Public office holders at the City of Vaughan end in  
15 most lobbying regimes at the municipal level in  
16 Ontario are not only elected officials, but also  
17 senior management staff.

18                   As experts before you have explained,  
19 at the municipal level, council is supreme. Council  
20 is the decision-maker. Why then, we ask ourselves, do  
21 accountability mechanisms focus on individual members  
22 of council, I would submit, and we will discuss later  
23 that there is a bit of a gap insofar as members of  
24 council are held to certain levels and standards, but  
25 they are not mentioned in the Municipal Act. They



1 have no authority under the Municipal Act.

2                   They are elected representatives. They  
3 work long hours on our behalf. They are stewards of  
4 our collected tax base. They build relationships they  
5 have knowledge of communities, and yet they are  
6 silently not mentioned in the Municipal Act.

7                   How do we avoid, as accountability  
8 officers, some of the pitfalls of the past? Well, my  
9 colleague and I have the Bellamy Inquiry executive  
10 summary with us at all times. We have the -- the  
11 Mississauga Judicial Inquiry of Justice Cunningham  
12 with us at all times. We meet and discuss best  
13 practices.

14                   We have to clearly recognize that  
15 development and lobbying is not bad, and this is  
16 something that we have to work very hard to  
17 communicate.

18                   We all recognize that elected officials  
19 do not come to their positions without background, and  
20 that background is often very vital to the work they  
21 do. In fact, it is this spectrum of knowledge,  
22 particularly in my experience, these viewpoints that  
23 individual members of council have that makes being a  
24 councillor so strong.

25                   However, a lobbyist registry has to

1 ensure that the relationships that members of council  
2 have with the community and with staff are  
3 transparent. If this does not happen, it hurts the  
4 town, it hurts the city, and it hurts business.

5 I look forward to answering your  
6 questions and I will just conclude my opening  
7 statements by saying that as lobbyist registrar for  
8 the City of Vaughan what I have seen is that most of  
9 the code complaints that I investigate as Integrity  
10 Commissioner in some of the smaller municipalities  
11 where I am integrity commissioner come forward because  
12 of the absence of a lobbyist registry. The absence of  
13 transparency as it relates to interaction between  
14 members of council and often times there is nothing  
15 nefarious about this absence, it's just that people  
16 don't understand why a member of council is  
17 interacting with a business leader.

18 And so I would submit that there has to  
19 be an ethical link and there has to be a complete  
20 framework in particular in some of the smaller towns,  
21 and my colleagues and I will discuss how that can  
22 happen for some of the smaller municipalities in  
23 Ontario.

24 THE HONOURABLE FRANK MARROCCO: Thank  
25 you.

1 MS. LINDA GEHRKE: Thank you. If  
2 there are no questions, we'll move into the slides.

3 THE HONOURABLE FRANK MARROCCO:  
4 Actually, I did have a -- a question. You -- Ms.  
5 Gehrke, you said that the integrity commissioner or  
6 the lobbyist registrar were fully -- I think the  
7 phrase you used was fully accountable.

8 And I wondered fully accountable for  
9 their -- their offices. And what's -- what does that  
10 look like?

11 MS. LINDA GEHRKE: What that looks  
12 like is a -- at the -- sort of at the ground level,  
13 the lobbyist registrar hires staff for the office and  
14 has a separate office which is independent of other  
15 offices at the city and does not report to -- in fact,  
16 the hiring is done independently of the city's human  
17 resources framework, although assistance can be sought  
18 from the city to do so, but the hiring is done  
19 independently.

20 The lobbyist registrar manages, creates  
21 a -- the budget and submits it to -- via to budget  
22 committee independently ever year, rather than as part  
23 of a division, for example.

24 And then submits that budget, again, to  
25 executive committee and again to council. The -- and

1 is responsible for the administration of that budget.

2 All of the offices procurements,  
3 necessary procurements are the responsibility of the  
4 lobbyist registrar. Again, in my experience it's  
5 always possible to seek help from the city's  
6 procurements division in matters that need assist --  
7 where, because you always need advice and assistance,  
8 but -- but the decisions are made independently and  
9 the process is administered independently.

10 All of the -- all of the functions of  
11 the office that one can think of are performed as  
12 independently as possible from the City  
13 administration.

14 Now, there were time -- there are areas  
15 in which my office was and I think likely still is  
16 dependent on assistance, for example, again, from the  
17 City clerk.

18 But the final sort of decisions about  
19 what gets done by the office, what gets done by the  
20 staff, how the funds that the office receives are  
21 spent are ultimately for the registrar to decide, and  
22 then for the registrar to account to city council  
23 through an annual report and through the budget  
24 process where the registrar is -- is accountable again  
25 to the budget committee, executive committee, and

1 council on what has been spent and what is proposed to  
2 be spent in the coming year and in the ten-year plan,  
3 et cetera.

4 I hope that --

5 THE HONOURABLE FRANK MARROCCO: Thank  
6 you.

7 MS. LINDA GEHRKE: -- helps.

8 THE HONOURABLE FRANK MARROCCO: It  
9 does. All right. I think I interrupted the flow of  
10 the --

11 MS. LINDA GEHRKE: Okay. So --

12 THE HONOURABLE FRANK MARROCCO: Unless  
13 somebody else is going to ask a question, carry on.

14 MS. LINDA GEHRKE: And that's quite  
15 fine. I think we would -- we would welcome questions  
16 and welcome sort of a discussion with all of -- with  
17 yourself, Justice Morrocco, and everyone --

18 THE HONOURABLE FRANK MARROCCO:  
19 Actually, there was a followup. Is it -- is the  
20 nonrenewable or renewable nature of the term important  
21 in terms of maintain -- in terms of accountability and  
22 in terms of maintaining independence?

23 MS. LINDA GEHRKE: Yes, I think it is.  
24 The reason for the nonrenewable term is to prevent --  
25 what our experience was, was that the -- the very --

1 the question of the renewal of the term can become a  
2 very politicized question. And it helps to maintain  
3 the independence of the accountability officer if the  
4 term is fixed. It -- it keeps the politics out of it.

5 THE HONOURABLE FRANK MARROCCO:

6 Thanks.

7 MR. WILLIAM MCDOWELL: We -- we do  
8 have some questions, but it may be better to get into  
9 them as we get into the slides.

10 THE HONOURABLE FRANK MARROCCO: Sure.

11 Fine.

12 MS. LINDA GEHRKE: All right. Now,  
13 I'm clicking, but I'm not getting a motion here.  
14 Maybe I can -- oh, there it goes. Okay, I've got it.  
15 It's the roller. Okay.

16 So, our first slide is what, "What is  
17 lobbying." And I will just start hopefully briefly  
18 with the Toronto definition because it was, I guess,  
19 the first iteration of a definition of 'lobbying'.

20 And not that it's the best, it was the  
21 first. And I think thoughts have evolved over time.  
22 Other municipalities do different things. Toronto  
23 devo -- adopted a definition of 'lobby' in its 2007  
24 bylaw which was quite prescriptive, quite detailed.

25 And it stated, and I'm quoting from

1 Section 140 -- Chapter 140, Section 1:

2 "Development, introduction, passage,  
3 defeat, amendment, or repeal of a  
4 bylaw, bill, or resolution on any  
5 matter by council, a local board  
6 restricted definition, the Board of  
7 Health or a committee, another body  
8 or individual under delegated  
9 authority about a whole bunch of  
10 things, all manner of decisions  
11 around policy, programs, directives,  
12 guidelines, procurement of goods and  
13 services and/or construction and  
14 awarding of a contract, all manner  
15 of decisions around applications for  
16 a service, grant, planning approval  
17 permit or other licence or  
18 permission, all manner of decisions  
19 around awarding of financial  
20 contributions, benefits, grants,  
21 again, on beha -- by or on behalf of  
22 the city, a local board restricted  
23 definition or the Board of Health,  
24 transferring from the city or a  
25 local board or the Board of Health

1                   any interest or asset of any  
2                   business, enterprise, or institution  
3                   and determining the model and method  
4                   of delivering a service."

5                   So, while quite detailed, is -- it's  
6 also quite comprehensive. And it's an inclusive  
7 definition, it's not limiting. It's without limiting  
8 kind of a definition, but it does create kind of a  
9 laundry list of examples.

10                   I'll then turn to --

11                   MS. SUZANNE CRAIG:    Go to Robert?

12                   MS. LINDA GEHRKE:     -- Robert, yes.

13                   MR. ROBERT MARLEAU (BY PHONE):    In the  
14 city Ottawa bylaw, lobbying communication is actually  
15 defined in -- in two (2) lines. It means any  
16 substantive form of communication, including a formal  
17 meeting, email, letter, phone call, or meaningful  
18 dialogue or exchange that materially advances the  
19 matter that is defined as lobbying whether in a formal  
20 or informal setting.

21                   It's a fairly simple definition, but  
22 it's very comprehensive. It captures just about every  
23 form of attempt to influence any decision by a  
24 council, committee of council, board councillor, staff  
25 member with delegated authority.



1                   As I said earlier, any two (2)  
2 consenting adults entertaining some kind of lobbying  
3 dialogue are captured by this definition.

4                   MS. LINDA GEHRKE:     Suzanne...?

5                   MS. SUZANNE CRAIG:     So, the City of  
6 Vaughan took a broad look at the City of Toronto and  
7 its comprehensive definition, looked at the City of  
8 Ottawa and it's -- it's flexible but comprehensive  
9 definition and -- and fell somewhere in the middle.

10                   What the City of Vaughan decided to do  
11 in creating the mandatory lobbyist regime is to -- to  
12 focus on communication because people would say, well,  
13 what does that mean and am I a lobbyist and what am I  
14 doing.

15                   And -- and it was quite clear from the  
16 outset that, in order for this to be a functioning,  
17 effective regime, we had to ensure that people  
18 understood, including the lobbyist who we were going  
19 to regulate.

20                   So, the -- the Vaughan bylaw focusses  
21 on a definition but is all about communication. The  
22 definition is -- is quite succinct:

23                   "Communication with a public officer  
24                   holder by an individual who  
25                   represents a business or financial

1 interest with the goal of trying to  
2 influence any legislative action,  
3 including but not limited to  
4 development, introduction, passage,  
5 defeat, amendment, or repeal of  
6 bylaws, et cetera."

7 And in order to make that clear to  
8 individuals so that they would be invited to  
9 participate in this mandatory regime, what we do on  
10 our website is -- is let individuals know here's what  
11 lobbying isn't.

12 By default, if you are not this, then  
13 you are a lobbyist, which allows many people who are  
14 fearful that they cannot continue to informally  
15 communicate with the public officer holders and  
16 elected official that this is not an impediment to you  
17 communicating and being engaged with the municipality.

18 There is a rigour from the City of  
19 Toronto. There's a flexibility from the City of  
20 Ottawa, but it also has to be understandable. And we  
21 have decided to make it more about default, what  
22 lobbying is not, what city engagement is, and outside  
23 of that, you are lobbying.

24

25

(BRIEF PAUSE)

1 THE HONOURABLE FRANK MARROCCO:  
2 Actually, while you're formulating a next question,  
3 Mr. Marleau, is -- there's an element of -- there's an  
4 element of materiality in your definition. Did I hear  
5 you correctly, about it materially advancing a matter?

6 MR. ROBERT MARLEAU (BY PHONE): Yes,  
7 materially advancing a matter or to influence a  
8 matter. And that is, I think, before council or  
9 within the authority of a delegated -- or staff with  
10 delegated authority.

11 THE HONOURABLE FRANK MARROCCO: So --  
12 so, there would be some communication with -- in which  
13 the person might be saying we had a communication  
14 about this, but -- but it -- it didn't materially --  
15 it didn't materially advance the matter or wasn't with  
16 a view to materially advancing the --

17 MR. ROBERT MARLEAU (BY PHONE): Sorry.  
18 The bylaw goes on to explain that communication, which  
19 is simply an exchange of information -- seeking  
20 information or giving information, is not deemed to be  
21 lobbying.

22 A lobbyist who would be, for instance,  
23 simply sending an email toward councillors saying, we  
24 are a developer; we are in your ward; this is what  
25 we're developing. So just to inform you that. That

1 would not be deemed to be a lobbying email or  
2 conversation.

3                   We will be approaching to -- but at the  
4 same time, we will be approaching you to see if we can  
5 get some re-zoning done in the context of this  
6 development. Then we've stepped into what is lobby  
7 communication.

8                   THE HONOURABLE FRANK MARROCCO: All  
9 right. Thank you.

10                   MS. LINDA GEHRKE: That segues nicely  
11 into this slide, which -- the next slide, which  
12 encapsulates what Mr. Marleau was just talking about  
13 in terms of unsolicited communication and  
14 communication to influence a decision.

15                   Suzanne, do you have any comments about  
16 the Vaughan bylaw?

17                   MS. SUZANNE CRAIG: So again, the  
18 Vaughan bylaw was very clearly borne from the rigour  
19 of the City of Toronto's bylaw and the flexibility of  
20 the City of Ottawa's bylaw, and it was -- it was  
21 interesting to note that from the outset of the  
22 mandatory lobbyist registry regime in 2018, many of  
23 the questions that came from -- from staff and from  
24 the public were around what is unsolicited and very --  
25 very similar to what Mr. Marleau said.

1                   Conversations that are just asking for  
2 clarification and information from public office  
3 holders are -- are not -- are not communications that  
4 fit the definition of lobbying.

5                   However, there were questions about  
6 not-for profits and advancing a financial or business  
7 interest and that is where Vaughan was moved to define  
8 not-for-profit more -- more comprehensively. We'll  
9 talk about this a little bit -- a little bit later.

10                  But I think the important point to note  
11 here is that every municipality has its -- its focus,  
12 and there are quite a few not-for-profits in citizen  
13 groups in the city of Vaughan who were concerned that  
14 this regime would -- would impede their working. And  
15 so we had to ensure that the unsolicited and the not-  
16 for-profit was clearly defined in what a lobbyist was.

17                  MS. LINDA GEHRKE:    And I guess I would  
18 just comment as well on the question of whether the --  
19 the communication needs to be solicited or unsolicited  
20 is not addressed by the -- isn't really relevant in  
21 the Toronto bylaw or whether it is for the purpose of  
22 influencing a decision that's not a requirement of the  
23 Toronto bylaw. It's simply a communication between a  
24 lobbyist and a public office holder about one (1) of  
25 the subjects that are listed.

1                   But there are a number of exemptions  
2 around particular kinds of communication, including  
3 like Ottawa and, I think, like Vaughan --  
4 communication that is simply a request for information  
5 is exempt, and there are a number of other  
6 communications exemptions, including constituent  
7 communications that we'll talk about later as well.

8                   THE HONOURABLE FRANK MARROCCO:    Do you  
9 get into a discussion -- I'm thinking of Vaughan,  
10 Ms. Craig, more than about what -- what isn't not-for-  
11 profit?

12                   I mean, for example, in the -- I'm not  
13 asking you to comment on that evidence we've heard.  
14 But the YMCA -- somebody might say it's a not-for-  
15 profit organization. I don't know whether they would  
16 or wouldn't. It doesn't really matter. But I'm just  
17 wondering if there are times when there's a dispute  
18 then about what is or what isn't a not-for-profit.

19                   MS. SUZANNE CRAIG:    Yes, most  
20 definitely. And -- and we found that because many  
21 organizations deem themselves to be not-for-profit but  
22 may not fit into the corporate definition of not-for-  
23 profit, we felt it was incumbent upon us to make a  
24 definition.

25                   THE HONOURABLE FRANK MARROCCO:    Right.

1 MS. SUZANNE CRAIG: So we added to the  
2 definition in the bylaw what is not-for-profit. It  
3 started off as an information bulletin of the  
4 registrar. I felt that in order to assist  
5 organizations and staff, I should -- I should set out  
6 on the website what I felt would be captured by the  
7 lobbying bylaw, and then later on, there was an --  
8 there was an amendment to the bylaw with a definition  
9 of a not-for-profit.

10 MS. LINDA GEHRKE: I think that moves  
11 well into slide 6 for -- Robert, for your information.  
12 I think we're on slide 6 now, and we're going to talk  
13 a bit about the types of lobbyists which includes the  
14 not-for-profit groups and organizations of which there  
15 are many different approaches in among municipalities.

16 And if -- Suzanne, if you would like to  
17 continue in that vein, I think you were going to  
18 explain the types of lobbyists that most  
19 municipalities have in their -- cover in their bylaws.

20 MS. SUZANNE CRAIG: So most of the --  
21 most of the municipalities have three (3) types of  
22 lobbyist including not-for-profit organizations where  
23 there is a -- a paid individual who is representing  
24 the not-for-profit.

25 The consultant lobbyist who is paid on

1 behalf of a client, the in-house lobbyist who was an  
2 employee or an owner of a corporation, and a voluntary  
3 unpaid lobbyist who -- who is not paid but is -- is  
4 engaging in the communications on behalf of a client.

5           This is -- is to ensure, at least for  
6 the city of Vaughan, that we are able to -- to follow  
7 the money, quite frankly, and -- and, you know,  
8 without -- without trying to -- to sugar coat it  
9 because the whole point of a lobbyist registry is to  
10 ensure transparencies, to ensure that we know who --  
11 who is talking to the elected officials and the public  
12 officeholders.

13           But most importantly, it's -- it's to  
14 see who is influencing through financial means the  
15 conversations that happen at Council and elsewhere. I  
16 will speak very briefly on not-for-profits. Justice  
17 Marrocco, you -- you preempted my discussion which  
18 was --

19           THE HONOURABLE FRANK MARROCCO:    Sorry  
20 about that.

21           MS. SUZANNE CRAIG:    -- that's quite  
22 all right, and I thank you for that -- which was that  
23 there had to be a definition. There were too many  
24 groups in the city of Vaughan who felt that they  
25 were -- they were outside of the normal exchange or



1 that they had to go through the rigour of registering  
2 in -- in the Registry.

3                   And so we came up with a -- with a  
4 definition of not-for-profit. It had to be a group  
5 that was not-for-profit clearly. The activities had  
6 to be -- the lobbying activities had to be ancillary  
7 to the function of the group, and the activities could  
8 not be on behalf of a for-profit group.

9                   And one would think that those are  
10 pretty straightforward, but again, sometimes  
11 unbeknownst to the actual group, there are groups that  
12 are for-profit that are supporting these not-for-  
13 profit groups. They may support in the form of  
14 providing them with legal counsel. They may support  
15 in the form of providing them web -- web support or  
16 what have you. And in essence, a not-for-profit that  
17 is not carrying out their activities for any financial  
18 means is actually being supported and driven by a  
19 group with financial interest.

20                   So we felt that in addition to the --  
21 the three (3) usual groups of consultant lobbyists,  
22 in-house lobbyists, voluntary unpaid lobbyists, we had  
23 to add the not-for-profit lobbyist, which prior to the  
24 amendment was an -- an exemption to having to register  
25 for -- as a lobbyist.

1 MR. WILLIAM MCDOWELL: I might just  
2 ask: Had that been a phenomenon that had caused  
3 problems where you might have three (3) developers  
4 kind of sheltering behind a non-profit who says, this  
5 is an excellent development for the following reasons  
6 peculiar to us as a non-profit but really they're  
7 being prompted to make the submissions by a developer  
8 or something?

9 MS. SUZANNE CRAIG: I would say yes.  
10 And -- and I would -- I would preface my -- my  
11 response by saying that developers are engaged in --  
12 in business in -- in the city of Vaughan and work hand  
13 in hand as partners.

14 There are some bad players, and  
15 those -- those individuals tend to shield their intent  
16 to influence their private interest by working in the  
17 shadows of a not-for-profit. And so this amendment to  
18 the bylaw was to address that very issue.

19 MS. LINDA GEHRKE: If there are no  
20 questions, I'll try to Robert unless there are  
21 questions. Robert?

22 MR. ROBERT MARLEAU (BY PHONE): None.  
23 Now, just briefly, the City of Ottawa councillors at  
24 the time in 2012 struggled with the definition of not-  
25 for-profits, whether it was in or out. There was

1 quite a bit of a division on arriving at the current  
2 definition which is not-for-profits with paid staff  
3 are captured.

4                   There was a deliberate intent to not  
5 capture general not-for-profit groups that are usually  
6 in advocacy mode for the greater good of society and  
7 the community when they interact with councillors in  
8 terms of advocating for more money in the budget or,  
9 let's say, sports activity, more ParticipACTION. The  
10 YMCA could participate in that kind of exchange and  
11 not be captured even though they have paid staff.

12                   However, if the YMCA was trying to  
13 negotiate a better zoning parking regulation that  
14 would enhance, potentially, its bottom line even as a  
15 not-for-profit, it would then be captured in that kind  
16 of activity. But it is not -- it's not a -- a clean  
17 definition. The lobby registrar has some leeway and  
18 flexibility in interpreting that.

19                   I'll give you an example. A local  
20 curling club had a paid rink master and was lobbying  
21 for -- the board of the local community curling club  
22 was lobbying for better parking facilities, and I  
23 deemed them to be not lobbying -- not being captured  
24 by the lobbying bylaw because the rink master wasn't  
25 the kind of staff that, let's say, the -- the YMCA

1 might have in terms of an executive director looking  
2 after the affairs of the not-for-profit.

3                   So whatever definition is brought in, I  
4 think you have to build in some flexibility for the  
5 registrar to interpret which group is captured and  
6 which is not.

7                   MS. LINDA GEHRKE:    If I may just  
8 comment as well, the City's not-for-profit exemption,  
9 which is longstanding, dates back to when it -- when  
10 the bylaw was adopted, but was amended again in 2008  
11 to exempt con -- community services sector  
12 organizations, which are -- is a -- perhaps,  
13 particular to the City.

14                   These are organizations that are  
15 eligible to apply for the city's grants, and they  
16 provide services to the community. In a -- in effect,  
17 they're like an arm of the city, and one (1) of my  
18 first tasks that was assigned to me by council was to  
19 consult with that sector on whether they should be  
20 exempt from registration, and they were.

21                   In addition, what the bylaw looks at is  
22 whether the not-for-profit is funded by a for-profit  
23 entity to advance its interests, which might speak to  
24 the developer situation, or whether the not-for-profit  
25 engages a consultant lobbyist, in which case it would

1 not be exempt. In both of those cases, it would not  
2 be exempt.

3 So -- and -- and whether -- and also  
4 the not-for-profit is not exempt when it is lobbying  
5 about a grant or award or a financial benefit in any  
6 case, but -- but the bylaw doesn't use the paid staff  
7 exemption that Ottawa does. I think it's generally  
8 consistent with the approach that Vaughan has taken,  
9 at looking at what the purpose of the lobbying is --

10 THE HONOURABLE FRANK MARROCCO: M-hm.

11 MS. LINDA GEHRKE: -- whose benefit is  
12 it for, who's funding it, who's controlling it.

13 THE HONOURABLE FRANK MARROCCO: So --  
14 so I was about to ask about whether it might not be  
15 better to focus on the reason -- or, the lobby, the  
16 objective. That would simply mean that sometimes, you  
17 ought to register what you're doing and sometimes, you  
18 don't.

19 MS. LINDA GEHRKE: Yes.

20 THE HONOURABLE FRANK MARROCCO: And it  
21 doesn't matter who you are.

22 MS. SUZANNE CRAIG: And -- and I -- I  
23 would tend to agree with that, and -- and perhaps by  
24 way of example, you may have a group that is a not-  
25 for-profit that is interested in keeping green spaces

1 in the municipality, and their interest may align with  
2 a particular landowner who has a view to selling later  
3 on. So just because their -- their -- their goals and  
4 their purpose may -- may overlap, we're not going to  
5 lump that -- that environmental group as a lobbyist.

6 But what the City of Vaughan does, what  
7 I do as lobbyist registrar is I have a conversation  
8 with that group and let them know what my role is, let  
9 them know what the regime requires so that they are  
10 clear that it's not the more, the merrier, because if  
11 you begin to associate with -- with other groups, you  
12 may be captured by the lobbying bylaw.

13 MS. LINDA GEHRKE: And the next slide  
14 deals with a -- a related topic to not-for-profits,  
15 which is citizen groups, and that's a particular area  
16 in -- in local -- that's very important to local  
17 democracy, communication between ward constituents and  
18 their councillors. It's generally accepted to be  
19 something that is to be promoted and supported, and  
20 the barriers shouldn't be erected between constituents  
21 and their representatives.

22 I will turn to my colleagues to comment  
23 on -- on their approach to citi -- citizen groups.

24 Suzanne, maybe you can start.

25 MS. SUZANNE CRAIG: So again, prior to

1 enacting the mandatory registry, I -- I set up  
2 meetings with the various departments to identify  
3 where there -- there usually were these communications  
4 -- when do businesses interact with you and  
5 participate with you -- with a view to making a -- a  
6 bylaw and a -- a regime that actually made sense to  
7 people.

8                   And one (1) of the -- one (1) of the  
9 things that was very clear is if you are part of a --  
10 an established and approved process at the  
11 municipality, at the City of Vaughan, and your  
12 interaction and your questioning takes place within  
13 that regime, then you are exempted from registering.  
14 There has to be a full and frank discussion.

15                   And so some of these -- some of these  
16 discussions now take place with community groups,  
17 citizen groups, in -- in regimes that have been  
18 created by the Economic Development Department, such  
19 as Farms to Fork, Start Up and Grow, and other  
20 initiatives of the City of Vaughan that welcome the  
21 participation and communication of citizen groups;  
22 however, they're outside of lobbying.

23                   So, in essence, they are doing what an  
24 outside group would do. They are approaching the  
25 elected officials and the public officeholders, they

1 are communicating with a view to influencing, and  
2 there is a financial component. But what the City of  
3 Vaughan recognized and what -- what members of staff  
4 told me is, Look, we -- we're -- the -- the -- the  
5 focus of Council in the -- in the -- in the four (4)  
6 years is to ensure that cities grow, that in -- that  
7 we ensure -- this is what I was being told -- that  
8 farms are able to communicate with the -- the -- the -  
9 - the members of -- of Council and staff. And so what  
10 is this going to mean if there's a lobbyist registry?

11                   And my response was, Look, the  
12 definition is very clear, but it's also very flexible.  
13 If you create, through Council's approval, a regime  
14 that allows for discussions with citizens' groups,  
15 then those discussions will be exempt from lobbying.  
16 And so I think from -- from my perspective at the City  
17 of Vaughan, what we did is takes the -- the -- the  
18 practice and some of the -- the lessons learned from  
19 the City of Toronto, for example, by Lobbyist Gehrke,  
20 who had to speak to these not-for-profits and citizen  
21 groups, and we looked at the -- the push back. And --  
22 and I said to myself, How -- how can we avoid that but  
23 still have an -- a -- a transparent process?

24                   And that was going to some of the  
25 program areas and saying, Look. Transparency is that



1 everyone knows who's talking to whom, so if you would  
2 like to ensure that these -- these -- these  
3 opportunities are still available to citizen groups,  
4 then create a -- a process in your department, get it  
5 approved by Council, and so everyone knows who's doing  
6 what.

7 MS. LINDA GEHRKE: Robert, how does  
8 the Ottawa bylaw treat citizens' groups?

9 MR. ROBERT MARLEAU (BY PHONE): Just  
10 very briefly, constituents are entirely exempted, any  
11 constituents interacting with his -- his councillor on  
12 behalf of themselves in terms of any benefit they may  
13 receive, such as re-zoning or any application they've  
14 made and want to go outside the business process to  
15 alter the course of things. That's exempt. Community  
16 associations, which takes various forms as creatures -  
17 - some are legal creatures; some are registered; some  
18 are not-for-profit; some are just loose associations  
19 of community people -- members -- are also exempted.

20 Grassroots movements are things like  
21 Democracy Watch, for example, who are largely in  
22 advocacy roles for the greater good of the community  
23 are also exempted.

24 The community associations in Ottawa  
25 are organized by ward and some are quite sophisticated

1 and it's still an issue with mostly developers in  
2 Ottawa, developers will have to register their  
3 lobbying communications, but these community  
4 associations do not have to.

5                   And in some cases they are quite  
6 sophisticated, led by lawyers with -- on a volunteer  
7 basis, members of their boards have been very -- very  
8 effective in their own lobbying, but they are deemed  
9 to be part of the constituency groups and as such are  
10 exempted.

11                   MS. LINDA GEHRKE:    And I guess if  
12 there are no questions for Robert or Suzanne, just a  
13 final comment on the -- the Toronto bylaw, which again  
14 was an early iteration of -- of the ward constituent  
15 exemption.

16                   It looks at what the -- the -- whether  
17 or not the -- the -- what -- what the communication  
18 was about and limits the exemption to communication  
19 about general neighbourhood and public policy issues.

20                   So for example, you know, a development  
21 that's going up on the corner of a street where the  
22 residents are -- want to talk to council about the  
23 fact that they don't want that development, would be  
24 exempt for the residents who are talking to their  
25 councillor, unless there is some fin -- special

1 financial benefit that they stand to make if the  
2 development doesn't go through. So financial benefit  
3 is the other -- the other issue.

4                   And -- or a public policy issue as well  
5 is a topic that is exempt in terms of ward constituent  
6 exemptions. So you know, if you want to go talk to  
7 your councillor or go talk to council on whether you  
8 think a particular, you know, the -- the Island  
9 Airport should be expanded or the sign bylaw should be  
10 amended, you have the right to do that without  
11 registering, unless there would be some special  
12 financial benefit to you or the group that you  
13 represent.

14                   And so those are the -- sort of the  
15 basic parameters of the exemptions.

16                   MR. WILLIAM MCDOWELL: That -- that  
17 was my question, because the example I had in mind was  
18 -- is a -- a campaign going on presently by the folks  
19 who own Le Select Bistro, which is across from the  
20 former Globe and Mail site, and they are being taxed  
21 as though this was development land, so at a much  
22 higher rate.

23                   And they say, well, you know, the --  
24 the rate should be lower because we want to preserve  
25 businesses that are independently owned like -- like

1 ours.

2                   So it -- it seems to me the community  
3 group should -- should be able to lobby and say we  
4 agree with that as a public policy objective, even  
5 though if we're successful in this, in these  
6 discussions, not just lobbying, but these discussions  
7 that will bring a financial benefit to the Bistro  
8 owners.

9                   But -- so it's only -- if what you're  
10 saying is it's only where it's a financial benefit to  
11 the people having the discussions, then I -- I see the  
12 point.

13                   MS. LINDA GEHRKE:    Yes, that's  
14 correct.

15                   And so the community group that wants  
16 to talk about that, as long as it doesn't get a  
17 special financial benefit out of it, is free to do so  
18 without registering the for-profit entity that wants  
19 to talk about it and might stand to benefit the  
20 developer who might benefit has to register because  
21 they stand to profit.  So it's -- it -- it boils down  
22 to whether -- whether there is some financial benefit  
23 there or not.

24                   So a business, even though it is a  
25 constituent, may have to register because it stands to

1 benefit from what is being talked about.

2 MR. WILLIAM MCDOWELL: There's a  
3 follow-on question from that.

4 So as it happens, the decision-maker on  
5 how the tax treatment is done is the province, because  
6 it's MPAC that decides on what the value is or how to  
7 value these properties.

8 So you're lobbying your city councillor  
9 to get council to take a position with the province.  
10 Is that also caught even though city council is not  
11 the decision-maker?

12 MS. LINDA GEHRKE: It could be. I  
13 think it would depend on whether there is some  
14 legislative decision that might be made by council if  
15 what you're doing is lobbying to --

16 MR. WILLIAM MCDOWELL: Get a  
17 resolution passed.

18 MS. LINDA GEHRKE: -- get a resolution  
19 passed. Then, yes.

20 MS. SUZANNE CRAIG: And I might add to  
21 that, it -- at the City of Vaughan we look at the  
22 approved processes. So as I said, we look at the  
23 default. If you are not within these approved  
24 processes then you are a lobbyist.

25 What you described to me, although I

1 don't have all the background, would be taking place  
2 in a -- in an approved process, whether it's a  
3 planning process or an appeal process or an LPAT (sic)  
4 process.

5                   So if the members of the -- the  
6 community, including a restaurant or an entity for  
7 profit are participating and communicating and seeking  
8 to influence within an approved process, then that's  
9 not lobbying.

10                   However, the decision-maker in that  
11 approved process may be the DCM of planning, may be  
12 the planner and not the member of council. And so if  
13 the individual is now going to the member of council  
14 to influence this approved process, that is lobbying.

15                   So what -- what I do in situations like  
16 that is I -- I walk people through who are you and who  
17 are you approaching. If you are trying to get a  
18 particular resolution that at the end of the day will  
19 affect you financially, benefit you financially, but  
20 it's part of an approved process, then you're not  
21 lobbying.

22                   If you go to the member of council who  
23 is not a decision-maker until that matter comes to  
24 council for resolution, you are lobbying.

25                   MR. WILLIAM MCDOWELL: Right. I mean,

1 it's not really within the approved process because  
2 it's not -- the citizen's group would not be taking  
3 the position within the MPAC valuation process, it's  
4 rather trying to influence the principles that would  
5 apply within that process.

6 MS. SUZANNE CRAIG: And then it would  
7 be lobbying. So we wouldn't be looking so much, at  
8 least at the City of Vaughan, at the financial impact,  
9 but rather the process. Is there an established  
10 process? Are you working within? As you point out,  
11 no, then you are lobbying, because you are outside of  
12 an approved process trying to influence a change.

13 MR. WILLIAM MCDOWELL: Right. Even --

14 MS. SUZANNE CRAIG: Even financial or  
15 otherwise.

16 MR. WILLIAM MCDOWELL: Even Quay  
17 citizen's group.

18 MS. SUZANNE CRAIG: Yes.

19 MR. WILLIAM MCDOWELL: You would say  
20 that's lobbying?

21 MS. SUZANNE CRAIG: Yes.

22 MR. WILLIAM MCDOWELL: Okay.

23 MS. SUZANNE CRAIG: In Vaughan.

24 MS. LINDA GEHRKE: Okay, if there's  
25 nothing else, other questions, comments? Robert, do

1 you have any comments?

2 MR. ROBERT MARLEAU (BY PHONE): Just a  
3 comment on that last point raised. For instance, an  
4 approved process would be a committee hearing where  
5 delegations come forward and make a suggestion or  
6 advocate for a change, that's an approved process.

7 And even a developer going through that  
8 appearance, the committee stating a particular case  
9 would not be lobbying.

10 When it's outside the regular process,  
11 then -- then it takes a total different approach --  
12 consequence of their action becomes then lobbying.

13 Just as an example, a Mac's Milk a -- a  
14 small community is redesigning main street and outside  
15 the hearings of the committee the Mac's Milk operator  
16 goes to his councillor and seeks to enhance the  
17 parking in front of his business; that's lobbying.

18 The hair salon across the way, outside  
19 of the committee process that it's hearing about main  
20 street, lobbies her councillor to prevent the parking  
21 from being enhanced because she feels there's a  
22 negative benefit to her business; that's lobbying.

23 The local cycling association, outside  
24 of the community business or community process goes to  
25 a series of councillors to sway their decision on



1 banning parking on main street to enhance cycling.  
2 That group will be exempted as a community group if  
3 they didn't have paid staff.

4                   So it's -- I just want to underline  
5 that graphically that Suzanne's point is that lobbying  
6 taking place outside of the business, normal business  
7 processes, is what we're looking at registering.

8                   MS. LINDA GEHRKE:    And I would just  
9 comment that the same applies in -- in the City of  
10 Toronto con -- context.  There is a -- there's a  
11 process exemption.

12                   If you're -- if you're communicating  
13 with the city staff that are designated to administer  
14 a particular application or review process, then  
15 that's not lobbying.

16                   If you're communicating with your  
17 councillor, who isn't the designated staff, it is and  
18 there is also the exemption for public meetings and  
19 public processes.  And I think that's common,  
20 actually, among all of the bylaws that municipalities  
21 have.

22                   How is lobbying perceived?  And this is  
23 slide 8.  Should we, and, if so, how do we remove the  
24 stigma around lobbying?  Robert, do you want to start  
25 off on this one (1)?

1 MR. ROBERT MARLEAU (BY PHONE): Yeah,  
2 just briefly. Lobbying is generally perceived as a  
3 negative black art by the general public, and that's  
4 largely due to the reputation that lobbying has  
5 developed south of the border.

6 When we look at the US example, a link  
7 between electro financing and lobbyists and the  
8 outcomes of the lobbying, although there is  
9 registration and some transparency in the -- in the  
10 United States, money has been the big issue there in  
11 terms of -- of the perception of -- of lobbying buying  
12 their way into -- lobbyists buying their way into  
13 congress.

14 That's not -- that's not true in  
15 Canada. We are one (1) of the leading OECD  
16 countries. When we develop lobbying legislation and  
17 trans -- transparency around it, I think we have to  
18 portray as much as we can lobbying as a very  
19 legitimate activity.

20 Elected public officeholders need  
21 lobbyists to be better informed. They need speciality  
22 lobbyists to come forward to better assist in the  
23 development of public policy.

24 It's not always about a -- necessarily  
25 a benefit return. There may be a benefit return to a

1 particular developer and a particular development, but  
2 the lobbying that they may be doing is to enhance the  
3 quality of the outcomes and -- or the fairness of the  
4 outcomes.

5                   And so, I think that, as we go forward  
6 in developing some of these lobbying bylaws, building  
7 in an education mandate for the lobby registrar is  
8 important.

9                   Educating the public officeholder that  
10 coming to office for the first time often at municipal  
11 level in small communities get exposed to lobbying  
12 activity that they never particularly enha --  
13 envisaged.

14                   Knowing that it is legitimate, so long  
15 that it is transparent, only enhances the reputation  
16 of the public officeholder and the reputation of  
17 lobbyists.

18                   MS. LINDA GEHRKE:    Thank you.  I'll  
19 turn to Suzanne.

20                   MS. SUZANNE CRAIG:    I would agree with  
21 Mr. Marleau's comments.  I would just add that we all  
22 know that lobbying, as we see on the screen -- Justice  
23 Bellamy stated that it's a useful activity and needs  
24 to be carefully controlled.

25                   Most lobbyist registrars like to say

1 that lobbying is a common and legitimate activity.  
2 But it's still tough to get businesses to register as  
3 lobbyists because this strikes them as something to be  
4 avoided for the reasons that Mr. Marleau has stated.

5                   So, sometimes lobbying continues to  
6 stay behind closed doors. It -- it takes place at  
7 fundraises, on golf courses. And the City of  
8 Vaughan's lobbying bylaw allows that as long as you  
9 register your communication in those informal settings  
10 within five (5) days of having had that conversation.

11                   But we have to normalize and  
12 destigmatize and clarify what lobbying is and what  
13 communications that are deemed lobbying are so that  
14 members of council, developers, the sidewalk labs, the  
15 Googles, the power streams understand that they will  
16 have a better chance at being able to influence  
17 members of council if they do it according to our  
18 regulated rules, explaining to public officeholders  
19 also that -- that the lobbying regime allows them to  
20 have a fairness tool to be able to demonstrate to the  
21 public that they did not lean in favour improperly one  
22 (1) way or the other.

23                   The lobbyist registry is actually a  
24 fairness snapshot and allows members of council to say  
25 when they go to council and are debating and

1 ultimately approving a resolution, I have spoken to  
2 all of these groups, I have the perspective of the  
3 different groups.

4                   So, I -- I try to let elected officials  
5 know that the perception and the stigma attached to  
6 lobbying can be changed by you, as well, you speaking  
7 to your constituents and advising them the importance  
8 of this tool, the importance of being able to let the  
9 public know that you were influenced by these  
10 individuals, so you have made an informed decision is  
11 actually a responsibility of the members of council,  
12 also.

13                   I think it's also important to go out  
14 to the business community and let them know, as I  
15 mentioned, that there is no stigma attached. And --  
16 and, for instance, at the City of Vaughan, the first  
17 sanction, if you are a lobbyist and you violate the --  
18 the lobbyist code of conduct, is a meeting with the  
19 lobbyist registrar because what we're trying to say is  
20 this is not a gotcha type of tool.

21                   This is to inform you that there are  
22 ways, transparent ways, to interact with elected  
23 officials and public officeholders, so going out to  
24 the businesses and saying, the board of trade, the  
25 chamber of commerce, talk to your members and let them

1 know that there is a registry, that my office is open  
2 to speak to you, that this is good business.

3 And just like a LEED's designation is  
4 good for solar energy, a designation of having spoken  
5 to the registrar is going to help your business with  
6 the city.

7 MR. WILLIAM MCDOWELL: Do you find  
8 that there's a bit of a stigma -- the other side,  
9 there's a stigma -- I -- and I suppose the one you've  
10 been discussing is the one attached to the business  
11 that employs lobbyists, so businesses worry about  
12 that.

13 But, I mean, having been a public  
14 official in Ottawa some time ago, what I found was  
15 that, if you had a registerable conversation -- I  
16 think I had a couple of them. People said, Oh my God,  
17 you've had a registerable con -- conversation, as  
18 though that was something to be avoided like the  
19 plague. And what do you do about that?

20 MS. SUZANNE CRAIG: Most definitely.  
21 That's a very good point because at the beginning of  
22 the mandatory lobbyist registry at the City of Vaughan  
23 there was an individual who had been a lobbyist with  
24 the Federal Government and took the opportunity to  
25 take his craft -- bring his craft to the City of

1 Vaughan.

2                   And immediately, the local newspaper  
3 took a look at the registry, how many times this  
4 individual had actually had communications with  
5 elected officials, and said, what's going on.

6                   There is a responsibility of the  
7 lobbyist registrar to communicate that being a  
8 lobbyist is a legitimate activity and that the  
9 communication that they have with elected officials is  
10 regulated by the bylaw.

11                   So, I took the opportunity to -- to  
12 speak to both the lobbyist who was denigrated in the  
13 article and the media to let them know this is a new  
14 tool, an accountability tool at the City of Vaughan,  
15 this is a legitimate activity. There is nothing  
16 nefarious going on, and if there is anything nefarious  
17 going on, the reason that we have a lobbyist registrar  
18 is to investigate that if it is so.

19                   So, I think there's a responsibility  
20 of, not just putting in place a lobbyist registrar,  
21 but ensuring that the lobbyist registrar is armed with  
22 independence to be able to address some of these  
23 misconceptions.

24                   MR. WILLIAM MCDOWELL:   And the other  
25 question I had is, so, you can see how many contacts

1 there have been between specified officials or  
2 officeholders and specified lobbyists.

3                   What's the time lag between those  
4 conversations and the public being able to go on a  
5 website and see them?

6                   MS. SUZANNE CRAIG:   That's also a very  
7 good question.  The City of Vaughan used to have a  
8 static registry, so it would be about a six (6) month  
9 time lag.

10                   We have worked to ensure that there is  
11 a forty-eight (48) hour window from the time of the  
12 registration to the time that is actually seen on the  
13 registry.

14                   I'm sure that my colleagues will talk  
15 about this later on, but the effectiveness of a  
16 lobbyist registry and the regime depends on the budget  
17 of the lobbyist registrar.

18                   In some of the smaller municipalities,  
19 this may be an issue.  We'll talk about that a little  
20 bit later.  But it is all about the -- the hardware  
21 and the software that you have in place.

22                   The City of Vaughan realized that  
23 people were questioning when they saw a particular  
24 individual at a golf tournament and didn't see it on  
25 the registry, how transparent is that process.  And I



1 had to bring a report to council to advise that there  
2 was funding needed together with the IT department to  
3 ensure that this tool was effective.

4 MR. WILLIAM MCDOWELL: Yeah. I mean,  
5 it's interesting because I -- I'd have to go back and  
6 check, but a six (6) month lag would -- probably  
7 wouldn't catch anything at issue in this Inquiry.

8 MS. SUZANNE CRAIG: Right.

9

10 (BRIEF PAUSE)

11

12 MS. LINDA GEHRKE: Robert...?

13 MR. ROBERT MARLEAU (BY PHONE): Yes.  
14 Just briefly on that, the City of Ottawa requires  
15 those registerable communication events to be done  
16 within fifteen (15) days, that's fifteen (15) working  
17 days. That translates into about twenty-one (21) to  
18 twenty-two (22) calendar days, depending on whether  
19 there was a sta -- a statutory holiday thrown in  
20 there.

21 The -- the question I think is  
22 pertinent in the sense that the -- the effectiveness  
23 of the transparency in the disclosure grows  
24 exponentially as the number of days from publication  
25 are reduced.

1                   And I've been under some pressure in  
2 Ottawa to take it down to five (5) days, but I've  
3 resisted that because some of these lobbyists are not  
4 necessarily professional lobbyists and it takes them  
5 some time to turn things around to find out to  
6 register, what to register, to be even defined  
7 themselves as -- as lobbyists.

8                   You're never going to be able to  
9 capture five (5) minute to midnight transparency  
10 desirable before a vote takes place before Council.  
11 But for the City of Ottawa, fifteen (15) days seems to  
12 have been fairly useful because Council only needs  
13 twice a month. On the Wednesday, there's a ten (10)  
14 day notice period for business on the agenda. The  
15 agenda is published on a ten (10) day notice basis.

16                   So it seems to be able to capture most  
17 of the intense lobbying that would be going around on  
18 an issue before Council comes to a vote on it.

19                   MS. LINDA GEHRKE: I would -- I would  
20 agree that it -- you need to look at the -- you know,  
21 the cycle of government in your jurisdiction. In  
22 Toronto, a three (3) day period was adopted because  
23 committees meet weekly. And so if you really want to  
24 know who's lobbying about a particular issue that's  
25 going to committee, and then next week, it's going to

1 Council, it's a matter of days.

2 But you need a -- as Suzanne said, you  
3 need a system that will be able to achieve that.

4 MS. SUZANNE CRAIG: If I -- if I may  
5 just to clarify, the City of Vaughan's bylaw requires  
6 a registration of a communication within five (5) days  
7 of that communication. I was speaking to the -- the  
8 actual system identifying that communication, so once  
9 they've registered, it did take up to six (6) months  
10 for that to be on the -- the registry.

11 MS. LINDA GEHRKE: Okay. Next -- and  
12 I think this slide 10 is -- is almost  
13 self-explanatory. The -- a lobbyist is -- this is  
14 Justice Bellamy and her discussion of  
15 Recommendation 116, which was that the City should  
16 establish and maintain a lobbyist registry.

17 A lobbyist is in the business to try to  
18 exert influence, but that's not necessarily against  
19 the public interest. What's against the public  
20 interest is when lobbying occurs in secret.

21 I don't know if anyone has a comment on  
22 that. Suzanne, did you -- I guess the question is:  
23 How would a small town benefit from transparency, and  
24 what are some of the challenges in providing  
25 transparency in a small town?

1                   And we've just discussed some of them  
2 which is the time lag that you might experience in  
3 actually knowing, even if you have a registry, who's  
4 lobbying.

5                   MS. SUZANNE CRAIG:   Again, I've been  
6 an integrity commissioner in some of the smaller  
7 jurisdictions.

8                   However, some of the comments that I've  
9 received from elected officials is that if there's a  
10 lobbyist registry, the types of conversations -- like,  
11 will we have a university; will we finance this  
12 resort; will we be getting funding from the province.  
13 Those -- those conversations will be curtailed and  
14 many of these smaller municipalities really depend on,  
15 you know, tourism and grants and universities.

16                   And my comment has obviously not been  
17 to give advice but to say that there are different  
18 ways of starting off this type of regime.   For  
19 example, one -- I think Mr. Marleau could talk about  
20 this -- but you could -- you could share  
21 responsibilities with the clerk's office.

22                   The -- the concern about having staff  
23 and not being able to resource a lobbyist registrar's  
24 office, there are different ways of looking at that.  
25 One could start off with a registry.   One could start

1 off with ensuring that there's a voluntary  
2 registration.

3                   So I think in -- what I've heard from  
4 some of the smaller municipalities is that there is a  
5 cost involved -- not only the registry, not only  
6 staff but the chill that they -- they suggest would --  
7 would go through the municipality if a registry was --  
8 was -- came into force.

9                   And -- and I think that that is  
10 incorrect, and I think that -- as I've pointed out  
11 before, it's actually a boom to business because it  
12 lets people know who's speaking with whom.

13                   MS. LINDA GEHRKE:     Robert, do you have  
14 any comment --

15                   MR. ROBERT MARLEAU (BY PHONE):     I  
16 would agree with -- I would agree with what Suzanne  
17 just said. The City of Ottawa when it adopted the  
18 bylaw also did not vote any increase in the budget for  
19 the clerk's office to develop the system. And what  
20 they did use was a -- an old database that was  
21 repurposed existing -- with existing IT staff, off-  
22 the-shelf software, and put the onus on the -- it's an  
23 online registry where the onus is all on the -- on the  
24 lobbyist to do the registration.

25                   So even the City of Ottawa, which has

1 some considerable resources, considerable budget, took  
2 a very cheap-and-cheery approach to developing the  
3 registry.

4 THE HONOURABLE FRANK MARROCCO: All  
5 right. John...?

6 MR. JOHN MATHER: While we're on this  
7 topic, I was wondering if you could speak to what are  
8 the sort of risks that a municipality is seeking to  
9 mitigate in -- in introducing a lobbyist registry? Or  
10 what's -- what value would they be getting from it?

11 MS. SUZANNE CRAIG: I'll jump in  
12 there. One (1) of the -- one (1) of the drivers of a  
13 mandatory lobbyist registry at the City of Vaughan was  
14 the report of the integrity commissioner as it related  
15 to a particular member of Council who had inserted  
16 himself into the procurement process of the city -- a  
17 very large tender.

18 And the risk to the municipality  
19 obviously is, first and foremost, the lack of public  
20 trust, that the money that taxpayers pay and give over  
21 to the elected officials to be stewards of would be  
22 used for -- for private gain of -- of an individual or  
23 a company.

24 In addition to that, the tendering  
25 process is spoiled because an individual has not

1 removed themselves during the blackout period. In  
2 addition to that, there are concerns of those who were  
3 not successful in the tender, feeling that the process  
4 at the City was unfair and rigged.

5 So the risk to the City are financial.  
6 The risk to the City are -- are legal. There are  
7 lawsuits that ensue. Most importantly, the risk to  
8 public trust that individuals believe that a member of  
9 Council is using the system to his or her benefit.

10 MS. LINDA GEHRKE: Robert...?

11 MR. ROBERT MARLEAU (BY PHONE):

12 Basically, I think it's -- it's stated in slide 14  
13 with the Bellamy statement that the fundamental  
14 purpose is to register -- to register -- to achieve  
15 greater transparency, manage behaviour, develop a  
16 culture of -- a political culture that is respectful  
17 of the public's interest.

18 There is -- there is a natural human  
19 behaviour that is enhanced when it's done in full view  
20 of others, and I think that the lobbyist registry  
21 simply enhances the public trust but at the same time  
22 enhances the proper behaviour of individuals  
23 interacting in the political will.

24 MS. LINDA GEHRKE: Okay. I think  
25 we'll go back to slide -- where were we here? I think

1 we were at slide 11. Yeah. And that slide speaks to  
2 a two (2) pronged approach which is a registry and a  
3 code of conduct, and we've been talking about  
4 transparency.

5                   The -- Justice Bellamy commented that  
6 some lobbyists feel that a registry alone is  
7 sufficient. Why is a code of conduct important? And  
8 secondly, what should go in a code of conduct?  
9 Suzanne?

10                   MS. SUZANNE CRAIG: So I think that  
11 codes of conduct are important both -- for members of  
12 Council, for -- for lobbyists, and for staff. And I  
13 think I was listening to some of the experts in your  
14 previous panels, and they've -- they've covered it  
15 tremendously well.

16                   You know, we -- we look at -- at codes  
17 of conduct for an elected official, but -- but what  
18 about codes of conduct for staff and how do they  
19 intersect? And -- and we look at codes of conduct  
20 for -- for lobbyists because we cannot rely on  
21 their -- their voluntary adherence to -- to rules.

22                   But codes of conduct are not just to  
23 ensure that people follow the rules and if they don't  
24 to -- to investigate and punish them. As I explained  
25 to -- to many of the municipalities and the actors



1 where I -- where I am integrity commissioner, codes of  
2 conduct are -- are an outward demonstration to the  
3 public that you commit to follow these rules.

4                   So one (1) of the reasons that  
5 lobbyists are stigmatized is because people think that  
6 they don't follow the rules. People think that they  
7 create backroom deals. A wonderful way to demonstrate  
8 that you don't is to have a code of conduct to which  
9 you will adhere, and you are able to say to people --  
10 to your question, Mr. McCormick (sic) -- that I am --  
11 I am following the rules. This is a profession.

12                   So I think in addition to that, codes  
13 of conduct lend themselves to companion documents --  
14 like a robust procurement bylaw, a robust human --  
15 human resources regime where people are hired based on  
16 merit -- can -- can make reference to nepotism  
17 policies and the like.

18                   So I think that codes of conduct are  
19 really important to externalize that people are  
20 committed to accountability.

21                   MS. LINDA GEHRKE: Robert...?

22                   MR. ROBERT MARLEAU (BY PHONE): I  
23 agree entirely with what Suzanne said and that a code  
24 of conduct is required, I believe, because every --  
25 everyone has to have the same set of rules as well,

1 something like golf.

2 I mean, there are rules about golf and  
3 what -- how you score and -- and what -- what areas  
4 you play within and all that sort of thing. That's  
5 the bylaw. That's -- that's the definitions. That's  
6 the -- that's the terms you must meet in order to win  
7 the game, if you like.

8 But the actual protocol -- the actual  
9 behaviour of the golfer, there's also a whole series  
10 of unwritten rules about how you don't laugh out loud  
11 on the tee while someone's driving; that sort of  
12 thing.

13 So it's -- the code of conduct is the  
14 common protocol that is expected from every lobbyist  
15 that will respect certain behaviour as they perform  
16 their duties within the bylaw.

17 MS. LINDA GEHRKE: I guess the only  
18 comment I would add -- and I think it flows from the  
19 comments my colleagues have made -- is that the  
20 transparency piece is covered by the registry, but it  
21 doesn't tell you about the integrity of the lobbying  
22 that was conducted.

23 So if you want to show the public that  
24 lobbying is being conducted in integrity, then you  
25 have to have a code of conduct.

1                   And again, I think this slide is --  
2 it's a quote from Justice Bellamy's report and is  
3 self-explanatory, and we'll leave it to you to read.

4                   But it also speaks to the code of  
5 conduct, which is that one (1) key to overcoming  
6 skepticism about lobbying is a clear understanding of  
7 what lobbyists should and should not be able to do,  
8 and you achieve that through a code of conduct.

9                   And the other key is the transparency  
10 which is through a lobbyist registry.

11                   And we're on to slide 13, and we're  
12 almost finished. Well, no, we're not. We've got  
13 five (5) slides to go. So -- four (4) more slides.  
14 Yes. So --

15                   THE HONOURABLE FRANK MARROCCO:   Why --  
16 maybe what we'll do is --

17                   MS. LINDA GEHRKE:    Yeah.

18                   THE HONOURABLE FRANK MARROCCO:   --  
19 we'll take ten (10) minutes --

20                   MS. LINDA GEHRKE:    Take a short break.

21                   THE HONOURABLE FRANK MARROCCO:   --  
22 give you an opportunity to sort of figure out where  
23 you are at and then give us an opportunity to step  
24 outside.

25                   MS. LINDA GEHRKE:    Okay. Good. Thank

1 you.

2

3 --- Upon recessing at 1:58 p.m.

4 --- Upon resuming at 2:06 p.m.

5

6 THE HONOURABLE FRANK MARROCCO: Slide

7 14, I think you said.

8 MS. LINDA GEHRKE: Slide 15.

9 THE HONOURABLE FRANK MARROCCO: Oh.

10 MS. LINDA GEHRKE: We're going to skip

11 forward a little bit. So we only have two (2) sli --

12 we've decided to shorten it to two (2) slides because

13 we know you probably want to ask some questions too,

14 so --

15 THE HONOURABLE FRANK MARROCCO: Well,

16 we have been asking them as we've gone along, too, so

17 we'll see. But anyway, slide 15.

18 MS. LINDA GEHRKE: Thank you. So we

19 want to talk now about what a registry should

20 disclose, and I'll start with Robert at slide 15.

21 MR. ROBERT MARLEAU (BY PHONE): Okay.

22 Can you still hear me?

23 MS. LINDA GEHRKE: Yes.

24 MR. ROBERT MARLEAU (BY PHONE): Yeah.

25 Well, I -- I think a lot of this has been covered in

1 terms of the general comments we've made, but  
2 essentially, it has to discover -- has to disclose the  
3 how, which is email, meeting, phone, et cetera; the  
4 who, that is, who is the principal lobbyist, and it  
5 can vary from jurisdictions to jurisdiction in Ottawa  
6 -- and it's only the main lobbyist who needs to  
7 register. You don't have to register the whole  
8 delegation if there are several participants. And it  
9 has to disclose the why, which is what is the effort  
10 to influence and, potentially, the outcome that is  
11 sought.

12                   And the focus should be, in my view,  
13 more -- more on the what, of what is being sought, but  
14 all three (3) components, I think, are required for  
15 the reasonable person looking in the registry to  
16 understand what's going on.

17                   MS. LINDA GEHRKE:     Suzanne...?

18                   MS. SUZANNE CRAIG:     I think in  
19 addition -- in addition to what Monsieur Marleau said,  
20 I think it's really important to -- to really look  
21 behind some of -- some of the companies. The default  
22 is that most of the organizations or the individuals  
23 who -- who lobby and register are, in fact, conducting  
24 a legitimate activity.

25                   But in -- in order to ensure that and

1 to be able to confirm to the public the integrity of  
2 these communications, we have expanded our -- our  
3 registry at the City of Vaughan so that we need to  
4 know if you are a numbered company, who your  
5 affiliates are. We need to know your -- your banking  
6 information. We have -- we have become more intrusive  
7 in the information that we require.

8                   There's confidentiality, so the  
9 organizations and the lobbyists can rely on us not  
10 sharing this information. But before we would just  
11 have the name of the lobbyist, the name of the  
12 company, their address, and planning or bylaw or, you  
13 know, parks, and that would really not assist us in  
14 understanding, as Monsieur Marleau pointed out, the  
15 what.

16                   And so in order to have a fulsome and  
17 robust understanding of what these individuals are  
18 doing with elected officials and who they are trying  
19 to influence and for what purpose, which is completely  
20 legitimate, we have asked for far more information on  
21 the registry, and we have created two (2) tutorials to  
22 assist lobbyists on how to use the registry and the  
23 reasons that we're asking for this information.

24                   What this does is assists those who are  
25 not professional lobbyists in carrying out the

1 function of registering, and it also lets the public  
2 know as they look at these tutorials, what we're  
3 capturing, what we're requesting, so that they have  
4 confidence that the regime is effective and  
5 transparent.

6 MR. RYAN BREEDON: And sorry, just to  
7 interject. When you say that you require banking  
8 information from the lobbyists, what -- what  
9 information is it that you're seeking?

10 MS. SUZANNE CRAIG: So the information  
11 that we seek is where they bank. We need to know who  
12 their subsidiaries are. We need to know where their  
13 headquarters are, and if they have various accounts,  
14 where those are held.

15 MR. RYAN BREEDON: And -- and that  
16 information would be kept confidential and not put in  
17 the public register.

18 MS. SUZANNE CRAIG: That's absolutely  
19 right. What we -- just -- just to add to -- to what  
20 I've just said, the registration collects quite a bit  
21 of information that is not shared with the public that  
22 would -- would form part of the confidential  
23 information.

24 MR. RYAN BREEDON: And -- and what  
25 about any compensation arrangements that the lobbyist

1 might have with its client?

2 MS. SUZANNE CRAIG: Well, certainly,  
3 as -- as my colleague has pointed out, that one (1) of  
4 the code of conduct requirements is not to have a --  
5 some sort of an agreement for a successful activity.

6 And so we require that the lobbyist, in  
7 addition to agreeing to abide by the code of conduct,  
8 in order for us to approve the registration, also  
9 ensure that their agreement does not contain that type  
10 of wording. And we -- we sometimes ask for that  
11 agreement as part of the registration process.

12 MS. LINDA GEHRKE: If I can just add,  
13 I -- I just wanted to highlight how the Toronto  
14 lobbying bylaw treats clients of consultant lobbyists,  
15 and quite often there -- there has been a concern  
16 about not knowing who, really, the client is. It's --  
17 it's clear that the client has to be disclosed by the  
18 consultant lobbyist even if the consultant lobbyist  
19 happens to be a lawyer, and we solved that very early  
20 on.

21 The client -- the disclosure of the  
22 client is actually quite -- required to be quite  
23 thorough, and it includes anyone who, to the knowledge  
24 of the consultant lobbyist, controls or directs the  
25 activities of the client or has significant control of



1 the client, because we believed, at the Toronto  
2 registry, that the -- the true client needs to be  
3 disclosed in the registry.

4 MR. WILLIAM MCDOWELL: So can I ask --  
5 so we've been discussing that businesses employing  
6 lobbyists shall disclose, and lobbyists shall register  
7 -- lob -- lobbyists shall adhere to a code of conduct  
8 or else. And I wanted to get to the "or else" part.

9 MS. LINDA GEHRKE: Right.

10 MR. WILLIAM MCDOWELL: So if we could  
11 pull up our document CJI0114545, which you'll see on  
12 the screen. So as part of our work, we've pulled  
13 together a table comparing various bits of procurement  
14 legislation across different municipalities in  
15 Ontario, and so what I wanted to ask each of you is  
16 about the mechanism when there hasn't been compliance  
17 and the effect on a particular transaction.

18 MS. LINDA GEHRKE: In a --

19 MR. WILLIAM MCDOWELL: So -- so within  
20 this, if we could go to page 12, because this is the  
21 Vaughan provisions, so I think -- where are we here?

22 Keep scrolling down. Hang on. Go up a  
23 bit.

24

25

(BRIEF PAUSE)

1 MR. WILLIAM MCDOWELL: So Ms. Craig,  
2 just looking there, this gets into the consequences.  
3 So in -- in Vaughan's case, part of the remedy is that  
4 the vendor in question can't continue to deal with the  
5 City?

6 MS. SUZANNE CRAIG: So to be clear,  
7 you're looking at the procurement bylaw --

8 MR. WILLIAM MCDOWELL: Right.

9 MS. SUZANNE CRAIG: -- not being  
10 responsible for the procurement bylaw, but certainly  
11 very familiar with it in -- in my investigations as  
12 integrity commissioner. I have not yet had an  
13 investigation as lobbyist registrar. This -- this  
14 bylaw came into force, I believe, in 2018. We -- we  
15 had significant changes to the bylaw, and it was  
16 determined that there would be no further activity  
17 with the City of Vaughan if you were found to have  
18 breached the bylaw.

19 What happens at that point is that is  
20 communicated to all public officeholders, frontline  
21 staff, and to the lobbyist registrar to ensure that we  
22 are all clear that we're dealing with an individual  
23 who's not following the rules.

24 MR. WILLIAM MCDOWELL: Then part of  
25 it, as well, I gather, from looking at the procurement

1 bylaw, is that there's a deemed warranty required by  
2 people doing business with the City that they're going  
3 to -- they're going to comply, the lobbyist they use  
4 is going to comply --

5 MS. SUZANNE CRAIG: Right.

6 MR. WILLIAM MCDOWELL: -- and so on.

7 MS. SUZANNE CRAIG: So -- so there's -  
8 - there's -- there's been an itera -- iterative  
9 process at the City of Vaughan. This robust  
10 procurement bylaw has come -- has been borne of -- of  
11 issues that have arisen at the City, and we have had  
12 individuals who continue to fall short of some of the  
13 rules of the procurement bylaw, have spoken to staff  
14 who were not designated to receive information, who  
15 have spoken to elected officials, et cetera.

16 And so now the procurement bylaw says  
17 before you can even participate in an RFQ, before you  
18 can have that preliminary meeting before the tender  
19 actually hits the street, you've got to give a  
20 warranty and that warranty has to be quite  
21 comprehensive because the City of Vaughan needs to  
22 know that you're going to follow the rules.

23 We had a couple of legal opinions as to  
24 whether we could do that, and we have -- and so if you  
25 want to do business with the City of Vaughan, you're

1 going to know that you're going to have to abide by  
2 the procurement bylaw, the lobbying bylaw, and other  
3 requirements of the city.

4 MR. WILLIAM MCDOWELL: Right. And I'm  
5 just -- I won't pull it up, but part of the language  
6 of the warranty is:

7 "Without prejudice to any of its  
8 other rights, the City reserves the  
9 right to annul any contract or other  
10 arrangement entered into with a  
11 vendor."

12 So that's pretty serious.

13 MS. SUZANNE CRAIG: Pretty serious,  
14 yes. We don't have prosecutions but we have front-end  
15 seriousness.

16 MR. WILLIAM MCDOWELL: Right. And is  
17 that -- do you know whether that provision has been  
18 used? I know this isn't your responsibility, but --

19 MS. SUZANNE CRAIG: Yeah, yeah. So  
20 because -- because there are settlements, I'm -- I'm  
21 not sure I can comment on that.

22 MR. WILLIAM MCDOWELL: I'll take that  
23 as a yes, but -- but I appreciate your answer.

24 And then we did look at the City of  
25 Ottawa -- and if I could ask M. Marleau the -- Ottawa,

1 I gather, has a provision where there's a sort of  
2 tribunal or panel that looks at instances where  
3 there's been a breach, and I'm interested in that  
4 because on the one hand I think -- and we've been  
5 advocating here for a -- a remedy when there's been a  
6 breach by a -- by a vendor or by someone the City is  
7 doing business with, of the lobbying provisions, that  
8 there has to be some teeth in what happens next.

9                   On the other hand, millions of dollars  
10 are in play here, and so I'm curious how the Ottawa  
11 system works. If Mr. Marleau can comment on that.

12                   MR. ROBERT MARLEAU (BY PHONE): In  
13 relation to procurement or in relation to breaches of  
14 the bylaw and the lobbying bylaw and the code of  
15 conduct for lobbyists --

16                   MR. WILLIAM MCDOWELL: Well, if --

17                   MR. ROBERT MARLEAU (BY PHONE): --  
18 procurement?

19                   MR. WILLIAM MCDOWELL: Well, pro --

20                   MR. ROBERT MARLEAU (BY PHONE): For  
21 procurement -- procurement lobby -- I'm sorry, go  
22 ahead.

23                   MR. WILLIAM MCDOWELL: Well, if you  
24 know about the procurement mechanism, we're keen to  
25 hear about that, but also --

1 MR. ROBERT MARLEAU (BY PHONE): Okay.

2 MR. WILLIAM MCDOWELL: -- interested  
3 in hearing about the lobbying provision.

4 MR. ROBERT MARLEAU (BY PHONE): The  
5 procure -- procurement bylaw strictly -- speaks  
6 strictly, that there's no lobbying to take place at  
7 all once the procurement notice has gone out. The  
8 code of conduct of councillors also precludes them  
9 from intervening in any procurement process. It would  
10 be an offence under the code of conduct as well for  
11 councillors.

12 In terms of breaches of the lobby  
13 registry they -- or the code of conduct by lobbyists,  
14 there's a -- the bylaw provides for a ban after an  
15 investigation that found merits to the breach by the  
16 lobby registrar, and the ban is kind of progressive  
17 discipline. It could be for two (2) months, it could  
18 be for three (3) months. On a second offence it could  
19 be for an undetermined period -- a period to be  
20 determined by the lobbyist registrar if the offence  
21 continued and that is sent out to all public  
22 officeholders, with delegated authority, as well as  
23 all councillors, and it is published on the website of  
24 the -- of the lobby registrar at Ottawa.ca.

25 I've only had to -- in the seven (7)

1 years the bylaw's been in place, I've only had one (1)  
2 ban. It's there to be seen on the website. It was a  
3 election -- election -- a company selling electoral  
4 counting machines, vote counting machines, and based  
5 out of the United States, and they refused to  
6 register, and after much discourse back and forth, et  
7 cetera, I issued a ban and posted it.

8                   More effective I found is the  
9 compliance agreements. A lot of the issues that I've  
10 dealt with over the last seven (7) years deal with  
11 what I would call minor or inadvertent breaches of the  
12 code of conduct by offering a gift directly or  
13 indirectly by a client or by a lobbyist or some  
14 invitation to some benefit, that sort of thing.

15                   Late registrations are another category  
16 I'll mention in a second, but in the latter case, what  
17 I do is bring in the lobbyist, we come to an agreement  
18 -- a compliance agreement where they actually state in  
19 the compliance agreement what they've done that is  
20 wrong and that they, essentially, will go forward in  
21 full respect of the bylaw. So it's not truly an  
22 admission of guilt but an admission of sorts.

23                   And I agree as a consequence not to do  
24 a full-fledged investigation, and we post that  
25 compliance agreement on the -- on the website. So

1 there's a bit of a shame-and-blame approach to it but  
2 it's less serious than the ban.

3           And, you know, most companies or  
4 lobbyists worth their salt like to protect their  
5 brand, and I've found that it has had some  
6 considerable impact in the lobby community.

7           The latter -- the last tool in my -- in  
8 the tool kit is the letters of direction. I  
9 technically don't have sanction authority over the  
10 clients of lobbyists but what I have done is when a  
11 lobbyist has breached the code or his client or her  
12 client has breached the code by, say, offering a gift,  
13 unbeknownst to the lobbyist possibly, I will issue a  
14 letter of direction to the client, say, the president  
15 of the company, asking them to -- make him aware of  
16 the breach; asking them to inform the rest of the  
17 board of directors of the bylaw and the conditions  
18 that they need to meet in order to respect the -- the  
19 bylaw, but I don't publish that letter of direction.

20           What I found is that in larger  
21 corporations where they have a lobbying faculty, if I  
22 can put it that way, the left arm does not know what  
23 the right arm is doing, and the letter of direction  
24 has been very effective in penetrating these larger  
25 corporations, getting the senior management informed



1 about the lobbying bylaw, and achieving greater  
2 compliance.

3 Now, I can do a full-fledged  
4 investigation; that can be costly both for the  
5 municipality and costly also for the party that is  
6 being investigated, and so the compliance agreement I  
7 think makes for a very short investigation. There's  
8 an incentive for the other party to agree to the  
9 compliance agreement by my foregoing an investigation.

10 MR. WILLIAM MCDOWELL: This may not be  
11 something that you -- you are particularly familiar  
12 with, but -- and I'll just summarize this part because  
13 you're not here with us, but I gather that where  
14 there's a complaint to the procurement officer of the  
15 city, there is then a panel comprised of the chief  
16 procurement officer, the city clerk and solicitor, and  
17 then someone from the Auditor General's office, and  
18 then if there's a determination that there has been  
19 noncompliance, then the sanction is pretty severe.

20 "A director shall not award a  
21 contract where supply services has  
22 determined that the provisions of  
23 this bylaw have not been adhered  
24 to."

25 Are you familiar with that process?

1 MR. ROBERT MARLEAU (BY PHONE): I am -  
2 - well, I'm familiar with it because I know about it.  
3 I'm not familiar with any specific case that's been  
4 dealt with recently. To my knowledge, those -- if  
5 there is such a decision made, it's not necessarily  
6 published on the website, but I am aware that -- and  
7 that provision is -- is added to every procurement  
8 RFP, that -- that goes out.

9 MR. WILLIAM MCDOWELL: Right. So that  
10 --

11 MR. ROBERT MARLEAU (BY PHONE): And in  
12 my case, what I'm dealing with is -- would be in such  
13 a case, if -- if the company that was seeking the  
14 procurement had a lobbyist, and there would be an  
15 intervention by the lobbyist in the procurement  
16 process or his client, I may get the complaint as a  
17 code of conduct -- a lobbyist code of conduct breach  
18 as compared to the procurement breach which would be  
19 in the clerk's area not in general area.

20 MR. WILLIAM MCDOWELL: Right. But the  
21 point, I guess, is that there's not only a sanction  
22 for the lobbyist, but there's also a real consequence  
23 for the -- the company that's employed the lobbyist.

24 MR. ROBERT MARLEAU (BY PHONE): The  
25 client, yes. Correct.

1 MR. WILLIAM MCDOWELL: Right.

2 MS. LINDA GEHRKE: Okay. If we can go  
3 back to slide 15 and disclosure. I think we don't  
4 have any -- do we have any further comments or  
5 questions about disclosure requirements or what the  
6 registry should disclose?

7 If not, I will move us to how -- how do  
8 we change the culture which is something that I think  
9 we all agree is necessary, certainly Justice Bellamy  
10 thought that it was necessary to change the  
11 conversation.

12 So I'll start with you, Suzanne.

13 MS. SUZANNE CRAIG: Very briefly, I've  
14 heard from your experts in the previous panels that it  
15 starts from the top and I -- I would agree. We can't  
16 depend on a strong head of council and -- and city  
17 manager or town manager or CAO, but it sure helps.

18 And I think that speak to the ability  
19 for a CAO or town manager to have training and often  
20 times members of council come to their occupation  
21 without training. So, mandatory training for members  
22 of council, as much as that is possible.

23 In addition, I think we just have to  
24 change our paradigm. We -- we penalize wrongdoing, we  
25 put in place prohibitions, we have media coverage of

1 those who are found to have contravened the code, but  
2 we don't laud those who follow the rules, and we don't  
3 look at businesses that are good corporate citizens or  
4 staff who come forward with whistleblower complaints  
5 and -- and -- and create a sphere of protection for  
6 them.

7 I think the important thing for -- for  
8 me, as an accountability officer, as my colleagues  
9 have mentioned, is training and education, learning  
10 from other municipalities and ensuring that what you  
11 put in place is effective and is doable.

12 We often talk about reprisals. So if  
13 you come forward with a complaint, if you are  
14 concerned about reprisals there's a -- there's a  
15 provision in the document that protects you.

16 I can speak very clearly that that has  
17 to come from the top, it has to come from the head of  
18 council, it has to come from the city manager or the  
19 town manager because if a -- if a staff person is  
20 empowered with an accountability document that says  
21 they can bring forward complaints of wrongdoing, and  
22 then they are slowly eroded at council meetings where  
23 members of council are scrutinizing their every work,  
24 where they are belittled in the hallways, we are not  
25 sending the message that there is an accountability

1 regime that actually works.

2                   When we tell businesses that lobbying  
3 is -- is a good thing, it's -- it's a legitimate  
4 activity, but we recognize that lobbyist registrars do  
5 not have all motion powers because we are creatures of  
6 statute and we can only act on a complaint, and we  
7 know that there are businesses out there that are not  
8 registering that are communicating with elected  
9 officials, what are the messages that we are sending?

10                   So Justice Bellamy was there the other  
11 day and spoke about the mayor who was -- was elected  
12 at the time when she made her recommendations, and he  
13 implemented those.

14                   Anna Kinastowski spoke about the fact  
15 that when Justice Bellamy brought her recommendations,  
16 that the city manager at the time, Shirley Hoy,  
17 implemented those recommendations.

18                   We cannot depend on a strong mayor and  
19 a strong city manager to ensure that whatever comes  
20 out of your recommendations is implemented.

21                   So there has to be training, there has  
22 to be an understanding that staff have to operate in -  
23 - in a protected environment and there has to be work  
24 with the media and work with business partners so that  
25 they understand, as I pointed out to you before, that

1 if somebody is registering several times they're doing  
2 the right thing.

3 So I think you need to have some sort  
4 of a comprehensive approach in education that is a  
5 companion piece to the accountability regime.

6 MS. LINDA GEHRKE: Thank you.  
7 Robert...?

8 MR. ROBERT MARLEAU (BY PHONE): Yes, I  
9 entirely agree with everything Suzanne said.

10 I -- I will just underline one (1)  
11 aspect which I have been pushing a lot in various --  
12 various situations, whether it's attending conferences  
13 of integrity commissioners or lobbying registrars are  
14 in my public education efforts. There has to be a  
15 code of conduct for lobbyists, and we've made that  
16 point.

17 There has to be a code of conduct for  
18 councillors, and now the province has required that to  
19 be mandatory since the 1st of March this year.

20 There has to be, in my view, a code of  
21 conduct for city employees. And all three (3) have to  
22 inter -- inter-relate when it comes to lobbying.

23 So co -- code of conduct for lobbyists  
24 should preclude offering any gifts, benefits or  
25 hospitality to city councillors or to city employees.

1 City employee code of conduct has to provide for not  
2 accepting any gifts from anyone that does business  
3 with the city, and they have to have the duty to  
4 inform any lobbyists of the bylaw and to verify  
5 registration.

6 The same applies to the code of conduct  
7 for councillors. They have to have the duty to inform  
8 someone who is lobbying them. They may not know that  
9 bylaw exists.

10 And they have the duty to follow up,  
11 verify and if there's no registration, to report  
12 saying to the -- to the lobbyist registrar.

13 You can't have them operating all three  
14 (3) and -- in a -- a -- in a vacuum or just as being  
15 informed that there is a lobbyist bylaw. There has to  
16 be an accountability and responsibility in all three  
17 (3) areas of municipal government to ensure the  
18 transparency --

19 MS. LINDA GEHRKE: If I can just make  
20 an additional comment, and I agree with all of what my  
21 colleagues have said.

22 Just as an example of how a coordinated  
23 ethical codes and bylaws can help, for example, in --  
24 in the Toronto context we now have, as I think you've  
25 -- you've heard from people like Wendy Walberg and --

1 and others, by -- Michael Pacholok from the city, we  
2 have a public service bylaw now that requires all  
3 staff to be familiar with the requirements and  
4 expectations for dealing with lobbyists, which implies  
5 that the city must educate its staff and train staff  
6 to recognize lobbying and to seek advice from the  
7 lobbyist registrar where needed.

8           We also have a -- an additional section  
9 of the lobbying bylaw that a -- requires all  
10 purchasing involved staff to report breaches of the  
11 lobbying bylaw to the lobbyist registrar, which works  
12 together with the procurement policies and processes  
13 and the code of conduct in the lobbying bylaw which  
14 requires lobbyists to comply with the communications  
15 restrictions and procurement bylaws.

16           So, effectively what happens is that if  
17 there is a breach of a procurement policy or  
18 procedure, commonly that's communication during a  
19 blackout period by a lobbyist and most vendors are  
20 lobbyists.

21           That goes -- that's now re -- required  
22 to be reported to the lobbyist registrar, who can then  
23 follow-up with the -- with that in the enforcement  
24 procedures which include prosecution under the  
25 Provincial Offences Act, and there have been two (2)



1 successful prosecutions of illegal lobbying during  
2 procurements.

3 As well as the consequences under the  
4 procurement policies, which may be even more severe in  
5 terms of having a contract cancelled or never being  
6 allowed to bid again.

7 So you need that kind of coordinated  
8 approach, I think, to change the culture and to  
9 encourage everyone to work together to enable everyone  
10 to work together to ensure that, for example,  
11 procurements which are, as we have heard from Justice  
12 Bellamy and others, are essential -- the -- the public  
13 it's essential that the public have confidence that  
14 the money the municipalities are spending is being  
15 spent in -- with integrity.

16 That would be my final comment. I  
17 don't know if my colleagues have any further.

18 Then we will turn -- we will go back to  
19 you about -- for any further questions, Justice  
20 Marrocco or counsel.

21 THE HONOURABLE FRANK MARROCCO: Well,  
22 there may be -- I don't know if there will be  
23 questions, although it did strike me that was a -- a  
24 very good way to terminate the presentation.

25 But are there questions, Mr. -- no, no,

1 I didn't mean to imply there shouldn't be -- I didn't  
2 mean to imply there shouldn't be, but that's a very  
3 good way for us to sum up. Go ahead.

4 MR. JOHN MATHER: I do have a few  
5 questions that I'd like to --

6 THE HONOURABLE FRANK MARROCCO: Go  
7 ahead and ask them.

8 MR. JOHN MATHER: -- cover off. Make  
9 sure they're judicious. One (1) thing that was  
10 discussed earlier in the presentation a fair bit was  
11 the importance of defining what is lobby activity,  
12 what isn't lobbying activity especially when it came  
13 to non-profits and community groups.

14 What steps can a municipality take to  
15 educate individuals who may be engaging in lobbying  
16 activity and may not realize it in order to make them  
17 aware of what -- what -- what their conduct will  
18 require when it comes to the lobbying bylaw?

19 MS. SUZANNE CRAIG: I think I'll start  
20 off. I think the -- the importance of having a  
21 lobbyist registrar -- so -- so, clearly, you can have  
22 a registry. You can have a lobbyist code of conduct.  
23 But the importance of having a lobbyist registrar with  
24 duties set out in -- in the bylaw is that there is an  
25 education component.

1 I have found, and my -- my colleagues  
2 have -- have spoken with me and they have also found,  
3 including the current lobbyist registrar of the City  
4 of the Toronto and the former lobbyist registrar, Ms.  
5 Gehrke, that speaking with departments and speaking  
6 with lobbyists is essentially to buy in to the  
7 accountability regime that you set out.

8 So, prior to bringing the bylaw of  
9 mandatory lobbying -- lobbyists registration in force,  
10 I went out and I spoke to every single department of  
11 the City of Vaughan. I spoke to division heads. I  
12 spoke to the SMT.

13 I explained what this would mean to  
14 them. I explained that this would not be a burden on  
15 them. I explained the reasons for and the purpose  
16 for. Then I met with their staff. And I had each of  
17 the division heads call meetings so that I could speak  
18 to them about what this meant, what the regime meant,  
19 and what they -- you know, how they could participate  
20 in this changing of culture at the City of Vaughan.

21 And then I went out to the business  
22 groups. I went out to the chamber. I went out to the  
23 developers. I went out to community groups. I went  
24 out to the BIAs. And I explained to them -- and I had  
25 a message that this is -- it's mandatory, it's how you

1 do business with the City of Vaughan, here's the  
2 reason why, here are some of the reasons why you don't  
3 want to be investigated, but if you don't understand,  
4 the first time, you'll speak to me.

5                   And so, it's just getting out there.  
6 And you don't do it once. You have to do it quite a  
7 few times because, again, there is this -- this stigma  
8 attached to the word 'lobbyist'.

9                   And an accountability officer is not,  
10 you know, the person you want attending your -- your  
11 corporation because that, too, has a stigma.

12                   So, there has to be an opportunity to  
13 make integrity and ethics and accountability look like  
14 something that people want to participate in. And  
15 that often shows up in my annual report as lauding  
16 some of the groups and the members who have  
17 participated in building this -- this change in  
18 culture.

19                   MS. LINDA GEHRKE: I don't know if  
20 Robert wanted to comment.

21                   MR. ROBERT MARLEAU (BY PHONE): We  
22 have the same sort of strategy at Ottawa. It has to  
23 be a constant education effort. The initial year is  
24 an important year. We covered all the councillors.  
25 We covered all the councillor's staff. That's kind of

1 a first line of defence for them.

2 I've held -- I hold two (2) -- twice a  
3 year a stakeholder session where all lobbyists --  
4 current lobbyists are invited, as well as all of the  
5 major professional association groups in Ottawa that  
6 interact with the city. I usually get about eighty  
7 (80) to a hundred people attend those.

8 I've done some local radio interviews  
9 to promote the lobby registry and -- and knowledge  
10 about it. And I've done all of the senior staff. As  
11 a matter of fact, I'm just about to do another one.

12 The city solicitor is responsible for  
13 employee code of conduct advice and education. And  
14 so, with -- with him I do a kind of Fred and Ginger  
15 routine where we meet with all senior staff twice a  
16 year, be -- because there is a turnover, to brief them  
17 on their duty to inform and their duty to report.

18 And it's a constant thing. It just  
19 can't be done once and forgotten. I agree with  
20 Suzanne, you just have to keep at it.

21 MS. LINDA GEHRKE: I think the only  
22 thing I would add is -- and this is something that I  
23 think Val Jepson spoke about, as well, the advisory  
24 function that a registrar can perform is -- is  
25 important because after the outreach session, you want

1 people coming back to you to -- you know, if they need  
2 advice on, well, is this really lobbying.

3                   And this is often procurement staff  
4 saying, you know, this vender is coming to me and  
5 wants to tell me about the great product they've got,  
6 is that lobbying, do they need to register, what  
7 should I do, should I refer -- you know, should I  
8 refer them to you, et cetera.

9                   So, that sort of advisory function and  
10 having -- making people feel comfortable to do that by  
11 ensuring that their conversations with you are  
12 confidential and that they're getting confidential  
13 advice is -- is important.

14                   As well, informational mater -- as  
15 informational materials that are directed particularly  
16 to staff, to councillors, to the public are available  
17 on the website and accessible. Interpretation  
18 bulletins and the like are -- are important.

19                   MR. JOHN MATHER: Just one (1) more  
20 topic I wanted to touch on and revisit. Mr. Breedon  
21 asked a question about disclosure of a consultant's  
22 fees as part of the registry.

23                   I take it from the answer, but please  
24 correct me if I'm wrong, is the cul -- consultant's  
25 fee is not disclosed. Is that correct?

1 MS. LINDA GEHRKE: That's correct, for  
2 -- in Toronto.

3 MR. JOHN MATHER: And --

4 MS. SUZANNE CRAIG: For Vaughan also,  
5 that -- that they have an agreement that they will not  
6 have a fee based on success, but I don't see the  
7 actual fee.

8 MR. JOHN MATHER: Do you see any  
9 issues or concerns if -- in -- in a bylaw that would  
10 require disclosure of a consultant's fee, including  
11 potentially over a certain amount?

12 MS. SUZANNE CRAIG: I -- you know,  
13 I'll let my colleague speak. But, quite frankly, the  
14 -- the purpose of the registry is transparency. It is  
15 to ensure that members of the public understand who is  
16 influencing the decisions of the City.

17 I don't know that knowing the fee of a  
18 consultant will in any way contribute to a  
19 betterment of that regime. I don't see a need for  
20 that.

21 MR. ROBERT MARLEAU (BY PHONE): I  
22 would agree with Suzanne's last comment. Ottawa does  
23 not require -- it does have -- we have the same  
24 requirement as the other regimes where you can't --  
25 can't get a fee for success. And that's part of the

1 code of conduct, as well.

2 But actually, what the lobbyist is  
3 actually being paid, we don't require that, nor do we  
4 request it. And I know there are regimes across  
5 Canada provincially that do require it.

6 But like Suzanne says, whether it's  
7 Bell Canada lobbying for a particular zoning change,  
8 let's say, on one (1) of their buildings and they  
9 can't afford a tremendous amount of fees as compared  
10 to a small business in a small community trying to  
11 influence a decision, ultimately what -- what -- who's  
12 paying the lobbyist is important as the client, but  
13 what they're paying them I don't think is particularly  
14 relevant.

15 And it -- you know, there is a David  
16 and Goliath thing going on all the time. But I don't  
17 think that transparency around how much a larger  
18 developer is paying a lobbyist versus a smaller  
19 developer is paying a lobbyist -- the outcome and the  
20 intent at influence I think is what's important.

21 MS. LINDA GEHRKE: Justice Bellamy did  
22 recommend that sort of a range of fees be disclosed.  
23 And I think, as I recall, the -- the reason might have  
24 been related to -- you know, you might see from the  
25 size of the fee that, if it looks outrageous, then you



1 might start asking questions, but the -- about whether  
2 that was, in fact, a success fee or what else was  
3 going on, there may be other ways of getting at that.

4                   And if we're in the position of  
5 exploring the issue, I would go out and talk to  
6 lobbyists about what the impact might be on their  
7 businesses of disclosing.

8                   And that would have to be weighed  
9 against the benefit that you would see coming from it  
10 rather than simply asking the direct question, are you  
11 being paid a contingency fee, which is prohibited  
12 under, I think, every bylaw I've seen.

13                   THE HONOURABLE FRANK MARROCCO:   How do  
14 you -- may -- maybe this is the la -- if that was your  
15 --

16                   MR. JOHN MATHER:   Yeah.

17                   THE HONOURABLE FRANK MARROCCO:   --  
18 last question, this is truly the last question then.  
19 But if you're trying to regulate and prevent the  
20 success fee or the contingency, then do you not -- do  
21 -- does that not push you into trying to figure out  
22 what the fee was?

23                   Because the representation could be,  
24 no, it -- it's -- I'm not receiving a contingency fee.  
25 But yet when you look at the fee that I'm --

1 arrangement I have, you say, no, well, you didn't call  
2 it a contingency fee, you didn't call it a success  
3 fee, but looked at in its entirety, that's exactly  
4 what it was.

5                   So, how do you enforce then if you  
6 can't figure out what -- if you don't know what the  
7 fee is?

8                   MS. LINDA GEHRKE:     That's a good  
9 question, and I think that's a -- you know, that shows  
10 a valid reason for considering whether to ask for  
11 disclosure of a range of fees.

12                   The -- you know, the -- if there were  
13 reason to suspect that a lobbyist was being paid or  
14 that there had been agreement -- an agreement to be  
15 paid a contingency fee, the registrar could require  
16 disclosure of -- as part of an inquiry.

17                   And I -- I have in -- in the past  
18 required disclosure of a contract to see exactly  
19 what -- what the contract was. That might be another  
20 way, short of disclosing a fee on the public registry,  
21 to ask for the contract to see whether a contingency  
22 fee was being agreed to.

23                   MR. WILLIAM MCDOWELL:   If you can --  
24 just to follow on that, you can imagine an example --  
25 like, let's say a standard fee charged by a lobbyist

1 was \$20,000 a month or \$10,000 a month.

2           You could imagine circumstances where  
3 someone who has a particularly close personal  
4 relationship with a mayor or a -- a councillor or a  
5 head of the planning department says, well, I'll take  
6 this on, but I want a hundred thousand dollars a  
7 month. You know, there -- this is something wrong  
8 with that. It looks like a contingency fee not -- not  
9 so declared. But unless you know the quantum, you  
10 have no way of measuring then.

11           And I guess provided there's a  
12 mechanism to get that information, it's helpful, but  
13 unless you know at least the range, you have no reason  
14 to suspect unless some competing developer or some  
15 competing vendor who's been unsuccessful says, you  
16 should be aware of that.

17           MS. SUZANNE CRAIG: Let me just jump  
18 in while my colleague is -- is looking. I -- the  
19 premise of the Vaughan lobbyist registrar regime is  
20 honesty and integrity. The -- the default, as decided  
21 by Council when they wanted to bring in this regime,  
22 it was a commitment of Council was to ensure that  
23 people understood that if they wanted to do business  
24 with the City, they had to act in a certain way.

25           We don't want to -- now stepping back,

1 you've got an independent accountability officer, you  
2 don't want to a sort of a -- a morality or, you know,  
3 how much you make type of a police-driven process.  
4 But there are investigative powers.

5                   So by ensuring that a member of -- of  
6 Council knows that a lobbyist is registering and is  
7 ensuring that they click, I agree to abide by the  
8 lobbyist code of conduct, there is a proportional  
9 responsibility on the elected official that they know  
10 that the lobbyist cannot be getting a contingency fee,  
11 and the lobbyist knows they can't be getting a  
12 contingency fee, and the lobbyist also knows that if  
13 they breach the code of conduct for lobbyists and are  
14 investigated, one (1) of the sanctions may be being  
15 banned from doing business with the City.

16                   So I get what you're saying. I get  
17 that if there is some view of how much someone is  
18 making, then it raises a red flag. How come you're  
19 making so much? Is it because it is based on the  
20 success of your activities?

21                   But we're trying to say to people that  
22 there -- we're inviting you to do business properly,  
23 and if you happen to be really good at your job and  
24 you have a higher fee than others, I am not going to  
25 default to you having dishonoured your oath. And it

1 has worked thus far because we have lobbyists that  
2 make a lot of money, and we have the obligation for  
3 them to give me their agreements redacted as they see  
4 fit and their banking information.

5                   And based on that, I ask them if they  
6 are adhering to the rules of the code of conduct for  
7 lobbyists, and they say they are, and that means that  
8 if they are not, they face the consequences. I don't  
9 need to know how much they are making.

10                   I agree that Justice Bellamy's  
11 recommendations make a lot of sense, but for the City  
12 of Vaughan right now, the invitation is to act with  
13 integrity as a default.

14                   MR. WILLIAM MCDOWELL:    So just to be  
15 clear, is it your position that you would never be  
16 interested in knowing the amount paid?

17                   MS. SUZANNE CRAIG:    As part of an  
18 investigation; not up front.

19                   MR. WILLIAM MCDOWELL:    Right.  But --  
20 so there is some relevance to the question the  
21 Commissioner raises.  You can -- you can foresee  
22 circumstances.  And frankly, the questions here don't  
23 come -- at least on my part -- completely out of left  
24 field.  They're things we've had to reflect on.

25                   MR. ROBERT MARLEAU (BY PHONE):    No.

1 There's a lot of relevance in the question. The --  
2 the measures to answer it in a structural and  
3 legislative way basically simply require what the fee  
4 is.

5           There's probably never any way to know  
6 for sure that the total amount of the fee being paid  
7 and the structure of the fee and how the structure of  
8 the fee was paid was based on success or not. If it's  
9 just two (2) parties -- two (2) individuals acting  
10 together, that kind of collusion is -- is entirely  
11 possible.

12           Professional lobbyists -- professional  
13 lobby firms who engage at various levels of government  
14 in Canada by and large know the law, know the bylaws,  
15 and they play within the rules of the game because  
16 they have a brand to protect.

17           And if you have a contingency fee and  
18 you're not successful, you're not going to make any  
19 money. At least that's the way the contract should be  
20 written. And so professional lobbyists who lobby and  
21 sometimes lobby unsuccessfully still get paid.

22           And I suppose the one-offs would be the  
23 individual who becomes a lobbyist because he knows the  
24 mayor is a more -- a more vulnerable and possibly more  
25 tempting kind of situations to lack integrity.

1                   But my experience at the Federal level  
2 and now at the municipal level with lobbyists, the  
3 professional ones are very straightforward, know what  
4 they're doing, and their reputation is at stake.

5                   I have one (1) lobbyist in Ottawa from  
6 a large LB firm. He specializes in municipal  
7 politics. He actually uses the registry as a CV.  
8 He's our most prolific register, and he takes it out,  
9 he prints it out, he gives it out to potential clients  
10 and saying, here's what I do; here's how often I do  
11 it; here's who I'm speaking to; and here's my rate of  
12 success.

13                   So for some lobbyists who are doing it  
14 professionally, the registry has become a point of  
15 reference for them if they're successful at it, and if  
16 they're experts in their particular area.

17                   I don't think that there's an entirely  
18 secure way of getting at two (2) individuals who've  
19 signed a contract for a -- for a fee paid on success,  
20 even through an investigative process. Our powers of  
21 inquiry outside the municipal realm are somewhat  
22 limited.

23                   THE HONOURABLE FRANK MARROCCO: Well,  
24 thank -- I think that's -- well, thank you, all.  
25 Thank you for the obvious amount of work you've put in

1 as a -- the presentation. And as I remarked with  
2 earlier panels, it would take us an enormous amount of  
3 time to attempt to gather all of the knowledge that  
4 you made available in an hour and a half or two (2)  
5 hours. And thank you very much on our behalf. Your  
6 participation in the Inquiry is going to be very  
7 helpful to us. So thank you.

8 We'll take five (5) or ten (10)  
9 minutes, and Mr. Amin will be next. Thanks.

10

11 --- Upon recessing at 2:53 p.m.

12 --- Upon resuming at 3:05 p.m.

13

14 THE HONOURABLE FRANK MARROCCO: Hello,  
15 Mr. Amin. That last witness. Exactly. So go ahead.

16 How are we doing this?

17

18 FAREED AMIN

19

20 DISCUSSION:

21 MS. KATE MCGRANN: Mr. Amin's  
22 presentation is on the screen and I'll just let you  
23 walk us through it.

24 MR. FAREED AMIN: Thank you, counsel.  
25 I should preface my comments, Your Honour, by saying



1 thank you to you and Commission counsel.

2 I also want to thank our own Town  
3 council and all the parties and their different  
4 counsels that appeared over the last several months at  
5 this Inquiry.

6 I also want to pay tribute to the  
7 former members of council of Collingwood that  
8 initiated this Inquiry, and I also want to thank the  
9 current members of council for their patience and  
10 perseverance as we wade through and navigate a number  
11 of very, very complicated, but important issues that  
12 the Town of Collingwood has to deal with.

13 I also want to thank the many experts  
14 that appeared before you over the last several days.  
15 I think the Commission has had the benefit of folks  
16 with a tremendous amount of experience in municipal,  
17 provincial, and at the federal level, and I think it  
18 is fit that you would conclude the Inquiry by having  
19 these experts appear before the -- the Commission.

20 This, as many of you would admit, this  
21 has been an important watershed moment for the Town of  
22 Collingwood. I feel this was a necessary exercise and  
23 when this matter came before Council, I supported it  
24 because I think it was important that the people who  
25 live, work, and do business in Collingwood understand

1 what occurred in the initial sale of the hydro shares,  
2 and secondly, how that -- how the money derived from  
3 that sale was -- was spent.

4 I think it is fair to say that Council  
5 is looking forward to the recommendations of the  
6 Inquiry.

7 In fact, many of the initiatives that I  
8 have personally undertaken within the organization has  
9 been done with a good -- what I would describe as the  
10 judicial inquiry lens.

11 I've listened carefully to the  
12 proceedings, and I've set up what I think is a  
13 response within the organization to hopefully fully  
14 implement the recommendations coming out the Inquiry.

15 But also, as I was going -- as I --  
16 well, going to my presentation, you will discover that  
17 there are a few things happening within -- within the  
18 Town of Collingwood that I think is a direct response  
19 to some of the comments and considerations that --  
20 that you have heard.

21 The one (1) over-arching comment I have  
22 is to say that I think the recommendations coming out  
23 of this Inquiry will have a significant impact on  
24 municipalities across Ontario, in particular, small  
25 municipalities.

1 I've worked in very large  
2 jurisdictions, I've worked in the City of Toronto, and  
3 I think very often we look at the municipalities with  
4 the same lens and I don't think we often appreciate  
5 the diversity across the four hundred and forty-four  
6 (444) municipalities across Ontario.

7 Many of the small municipalities, in  
8 particular, don't have the intellectual bandwidth nor  
9 the resources, fiscal or otherwise, to do the kind of  
10 things that larger municipalities are able to do.

11 And hence, I think there is need for  
12 greater provincial oversight in some of these  
13 instances, and I'll speak more specific about those as  
14 I go through my presentation.

15 I spoke about the -- and I'm on slide 2  
16 -- I spoke about the comprehensive nature of the  
17 Inquiry. I've mentioned that this is a significant  
18 investment by the Town of Collingwood, both in terms  
19 of the finances that we have dedicated to this  
20 investigation, as well as the staff resources.

21 I would probably say that this is  
22 perhaps the largest investment per capita by any  
23 public entity in Ontario, or indeed across Canada.

24 These are my observations, I -- I think  
25 that what I heard throughout the process was that

1 sometimes there was a lack of clarity in process and  
2 procedures that staff, and indeed, elected officials  
3 were sometimes asked to adhere to.

4                   There was a -- in some instances, here  
5 again this is my interpretation, there was perhaps a  
6 reluctance for staff to speak truth to power and I  
7 think this threatens one (1) of the very foundations  
8 of the public service invest in democracy where we are  
9 told and we are taught to speak truth to power and to  
10 be able to provide non-partisan, objective,  
11 independent advice.

12                   I've always taught to staff, that I've  
13 worked with, that our job is to provide a  
14 comprehensive array of independent, objective advice.  
15 And once elected officials have made a decision, our  
16 job is to relentlessly implement that decision.

17                   Our job is not to second guess elected  
18 officials, our job is not to minimize the range of  
19 options that go before elected officials. Our job is  
20 not to minimize the fiscal impact the decisions will  
21 have, and our job is not to minimize the public  
22 implications of what council is about to decide on.

23                   Our job is to provide that advice to  
24 the best of our ability and allow council to make  
25 informed choices.

1 I have observed as well that there may  
2 have been what I would describe as parallel and  
3 perhaps inappropriate decision-making process, both to  
4 the political level and at -- and at the  
5 administrative level. And we've taken some actions  
6 across the municipality to try and address some of  
7 these considerations.

8 There were communications between staff  
9 and individual members of council. There were often  
10 communications between elected officials which, in my  
11 view, was meant to thwarted the decision-making  
12 process. In fact, they were material and in some  
13 cases without the benefit of the knowledge of full --  
14 full council.

15 In other words, some elected officials  
16 were provided with information that others did not  
17 have, and in my view, in some cases that resulted in  
18 an imbalance of power and when council appear before -  
19 - when councillors appear before the -- at the council  
20 table, some of them were not equipped to make  
21 decisions or they did not have the information they --  
22 they should have had to make an informed choice.

23 There were a number of ethics and  
24 integrity provisions. I'm not sure that in the  
25 previous regime that these rules were -- were well-

1 defined.

2 In any case, I would argue that one  
3 cannot, in all instances, legislate or regulate ethics  
4 and integrity and in some cases common sense should  
5 have prevailed.

6 These, in my view, at least at the top  
7 of the organization, were very experienced public  
8 servants who should have known better.

9 Throughout the last several days as  
10 well, we have heard a lot about code of conduct, and I  
11 would agree with the panel who just preceded me that  
12 you need a code of conduct for not only lobbyists, but  
13 -- and elected officials, but you also need a code of  
14 conduct for staff.

15 And a code of conduct for staff has to  
16 be comprehensive, not simply to indicate what needs to  
17 be disclosed, but it has to go beyond the receipt of  
18 gifts and other benefits of being in a -- in a role  
19 within a municipality.

20 And the last point on the page is what  
21 I would describe as staff vulnerability, and you've  
22 heard some of my colleagues spoke to this earlier in  
23 the -- in the Inquiry.

24 Staff, in some cases, feel very  
25 vulnerable in the municipal role. I can say without

1 reservation that the CAO's role and city manager's  
2 role are also very, very vulnerable.

3           And part of the challenge of many  
4 senior administrators across municipalities is  
5 inability to speak truth to power because they're more  
6 concerned about the longevity within their  
7 organization than providing the best or -- the best  
8 advice.

9           And we've seen it in this Inquiry,  
10 we've seen the CAO who was fired after a very brief  
11 tenure within the municipality and we've seen other  
12 instances where staff felt very reluctant to exercise  
13 or express their views.

14           And we also saw staff who were supposed  
15 to be subject matter experts excluded from the  
16 decision-making process when they should have been on  
17 the table.

18           I've talked about the inappropriate  
19 decision-making process. In any organization, the  
20 dominant correlation should represent the  
21 organizational structure and hierarchy.

22           The dominant correlation should not  
23 represent hand picked individuals by elected officials  
24 or by senior administrators.

25           The subject matter experts need to be

1 in the room when decisions impacting on their mandate  
2 and departments are being made.

3                   What have we done so far? Throughout  
4 the last eighteen (18) to twenty-four (24) months, we  
5 have made a concerted effort to strengthen the  
6 organizational culture.

7                   And this goes back to Justice Bellamy  
8 when she spoke about the culture between an  
9 organization. And I think you would have heard many  
10 of the panel members speak directly to this concept.

11                   The culture we're trying to build in  
12 this town -- in the Town of Collingwood is to create a  
13 very vibrant, high-performing, 24th Century public  
14 sector organization based on ethics and integrity.

15                   We're trying to encourage staff to  
16 speak truth to power. We're encouraging staff to be  
17 objective, to be nonpartisan in their advice. We're  
18 encouraging staff not to engage one-on-one  
19 conversation with members of council or to provide  
20 information that might be inappropriate to individual  
21 members of council.

22                   In fact, we have adopted a policy  
23 across the organization now which -- whereby, if a  
24 member of council were to send a request or a question  
25 to one (1) staff, the response is circulated to the



1 entire members of council.

2                   So, that's an attempt to try and level  
3 the playing field and ensuring that all members of  
4 council have the same information. We're trying to  
5 set the tone from the top, from the senior management  
6 team, of transparency and accountability, ethics, and  
7 integrity.

8                   We've -- we've made some organizational  
9 changes that's still being implemented. And these  
10 changes are focussed on four (4) key ideas. One (1)  
11 if trying to find enterprise-wide solutions.

12                   And I think that is an important  
13 consideration for these -- for this Inquiry because  
14 what I think did not serve Collingwood very well is  
15 this silo mentality or the compartmentalization of the  
16 decision-making process.

17                   I think in the modern public sector  
18 world policies are interconnected, they're inter-  
19 relatable. And you've got to take an enterprise-wide  
20 approach to solving -- solving solutions.

21                   I then encourage the senior management  
22 team across the organization to be engaged even if the  
23 policy on -- under consideration doesn't impact on  
24 their particular department.

25                   Every major initiative that goes before

1 Council now has to go before the department heads  
2 committee. At that committee, each member has an  
3 opportunity to exercise their views and their opinions  
4 without being encumbered by the -- by their respective  
5 mandate.

6                   The second key ingredient of the change  
7 is to try and focus on core business. In the former  
8 organizational structure, the bylaw, for example, had  
9 -- was positioned with clerk services. And, in my  
10 opinion, that sort of detracted from the business --  
11 business that the clerk is supposed to be focussed on.

12                   So, what we've done in the new  
13 organization is remove bylaw enforcement and put it  
14 where it belongs by creating an integrated inspection  
15 and enforcement team at the -- the Town of Collingwood  
16 rather than having a fragmented approach to, for  
17 example, investigation and enforcement.

18                   We're also trying to enhance  
19 transparency and accountability. We have hired an  
20 accountability officer. And we're also shining a  
21 light on the whole procurement process.

22                   Recently, we took to council, which --  
23 which will be an annual event, a listing of all of the  
24 procurement initiatives that were what we considered  
25 to be nonstandard.

1                   So, the ones that did not go through an  
2 RFP process, all the -- all those considerations were  
3 placed before Council for their information. And that  
4 report will be public. And, as I said earlier, it  
5 will be an annual feature of -- as part of our  
6 transparency and accountability provision.

7                   We've also hired in the last couple of  
8 years or so a procurement officer. And that was the  
9 annual report that I referred to earlier in terms of  
10 the nonstandard procurement purchases.

11                   We've got a new staff council relations  
12 bylaw. And our in camera meetings also go through a  
13 additional level of scrutiny whereby the clerk has to  
14 verify -- even before members of council goes in  
15 camera, verify that the meeting does actually comply  
16 with the various acts -- various provisions in the  
17 Municipal Act.

18                   I mentioned earlier about  
19 correspondence between members of council and staff  
20 where we try and ensure that there isn't  
21 correspondence that goes between staff and individual  
22 members of council, but indeed that information is --  
23 is shared to all members of council.

24                   And, you know, we're not in the  
25 business of sharing staff reports prior to those

1 reports going before council. We try and -- and  
2 ensure that those reports are developed by staff and  
3 prepared without the bene -- without the -- any kind  
4 of "political input" prior to it appearing on  
5 council's floor.

6                   Just in terms of the recommendations,  
7 Your Honour, I'm not going to go through the  
8 amendments and the statutory framework. This is the  
9 last slide. I think you've heard a lot from a number  
10 of experts on potential amendments to the Municipal  
11 Act, to the Municipal Conflict of Interest Act, and  
12 related legislation.

13                   I spoke earlier about the need for a  
14 comprehensive code of conduct for senior staff. One  
15 (1) of the things that we're contemplated within the  
16 Town of Collingwood is looking at some kind of post-  
17 service restrictions. We don't have anything now.

18                   I think it is appropriate, especially  
19 for the executive team and perhaps some members of the  
20 management team in key positions to look at whether or  
21 not there should be a requirement to restrict those  
22 staff from lobbying or soliciting business with the  
23 municipality until after a certain period has -- has  
24 expired between them leaving the municipality and  
25 coming back to work for us.

1                   So, you know, that's the "cooling off  
2 period." I know the Province has such a provision,  
3 but -- but we don't.

4                   As well, I think the con -- code of  
5 conduct that we have can be further strengthened along  
6 the lines that we've heard from the panel that spoke -  
7 - spoke before me. The issue about mandatory training  
8 for new members of council and staff I think is also  
9 important.

10                  Right now, many -- many municipalities,  
11 including the Town of Collingwood, we do have  
12 orientation where we bring in, for example, the  
13 integrity commission to speak to members of council  
14 and we go through the strategic plan and identify some  
15 of the big challenges, and also deal with the  
16 operational plan and brief them on some of the fiscal  
17 challenges faced by the municipality.

18                  Those are training that we do as a  
19 matter of course, but -- but I think there might be  
20 some consideration to looking at some kind of  
21 mandatory training for new members of council, and  
22 also for -- for senior staff.

23                  And the panel again that spoke just  
24 before me did talk about ensuring that, if you have a  
25 code of conduct, if you have a lobbying registry, then

1 staff within the organization are familiar with those  
2 things, as well, and know when they are in a position  
3 that require them to report something or to make it  
4 known that something might be -- might be either not  
5 in -- in alignment with the code of conduct or with  
6 any of the policy that relate -- relates to  
7 accountability or transparency.

8                   One (1) of the big challenges I think  
9 we observed throughout the last several months at this  
10 Inquiry has to do with the inability of staff to  
11 express their views freely.

12                   And, you know, I -- I placed on here  
13 what I call -- what -- what is known as whistler  
14 blower protection, is -- I mean, I think, again staff  
15 has to have a safe space, the ability to be able to  
16 disclose information.

17                   Many public sector organization has  
18 this kind of a protection in there, and I think it's  
19 time for us to look at the municipal level as to how  
20 we might put in place some protection for staff who  
21 are inclined to act in the public interest but have no  
22 ability to do so within the -- within the  
23 organization.

24                   We are trying to create that culture in  
25 Collingwood where senior staff are accessible, and we

1 are encouraging staff to speak up. But I think there  
2 still needs to be a provision that would protect staff  
3 in the event that they were to deem it appropriate to  
4 go this route.

5 I spoke earlier, as well, about greater  
6 provincial oversight and support, and here, I think it  
7 particular relates to smaller municipalities. We  
8 don't have the intellectual nor the fiscal bandwidth  
9 as many larger communities do, and I think we need to  
10 look at the province to provide some leadership in  
11 this regard.

12 But also, I think -- and I've been  
13 working with some of my colleagues in the County of  
14 Simcoe -- look at partnering with other municipalities  
15 to share resources and find ways of -- of gaining some  
16 efficiency by doing things together, whether it's  
17 seeking legal advice or setting up, you know, a common  
18 lobbying registry or looking at sharing integrity or a  
19 registrar's -- I mean, these are all things that I  
20 think we may not be able to do independently, but I  
21 think together we can find the resources to  
22 collectively look at sharing some of these resources.

23 And, you know, the penultimate point in  
24 the last slide there deals with the -- addressing some  
25 of the perceived vulnerability of CAO and city

1 managers. And this is not common to Collingwood. I  
2 think it -- it exists across Ontario and, in  
3 particular, smaller municipalities where senior staff,  
4 in particular, might find it a bit challenging to  
5 express their views freely without worrying about what  
6 the consequences are.

7                   So those are my brief presentations. I  
8 want to thank you again, Your Honour and your staff  
9 and the Town staff and everyone else involved. This  
10 has been a thorough, comprehensive, and, as I said  
11 earlier, would be something that we look forward, and  
12 I'm hoping that we will begin to act on the  
13 recommendations as soon as we receive them.

14                   So thank you very much, and it's been a  
15 pleasure to host you in Collingwood and the present --  
16 the present weather notwithstanding. And I -- I look  
17 forward to receiving your report and your  
18 recommendations, sir.

19                   THE HONOURABLE FRANK MARROCCO:  
20 Mr. Amin, before we terminate, in the whistle-blower  
21 protection, to whom does the -- do you think the  
22 whistle-blower reports the...

23                   MR. FAREED AMIN:    So there are --  
24 there are different models, Your Honour. I mean,  
25 there -- in the current municipal regime, I mean one



1 (1) option would be to have the whistle-blower either  
2 report to the integrity commissioner, for example.  
3 That could be outside arm's third-party. It could be  
4 the -- the CAO or the city manager or the town manager  
5 as -- as another option. And -- or it could be -- it  
6 could be Council.

7 But I think the -- the Council approach  
8 is probably more problematic than the -- the former  
9 two (2), which is the -- the integrity commissioner or  
10 an independent third-party or the -- or the CAO.

11 THE HONOURABLE FRANK MARROCCO: Thank  
12 you. Questions...?

13

14 (BRIEF PAUSE)

15

16 MR. WILLIAM MCDOWELL: So just while  
17 you're here, we've spent some time discussing what the  
18 mechanism should be when there has been elicited  
19 pressure or elicited communication with members of  
20 Council or senior staff. So I'm sure the Commissioner  
21 is contemplating, at the very least, some kind of  
22 lobbyist registry.

23 But do you have any thoughts, given  
24 your experience within the Ministry and so on, as to  
25 whether the mechanism for addressing this in relation

1 to the underlying transaction should be that everyone  
2 that does business with the City has as part of their  
3 contract that if they breach one (1) of these  
4 provisions, the contract may be voided? Should the  
5 presumption be that the contract's voided? Do you  
6 have any thoughts about that?

7 MR. FAREED AMIN: Well, I mean I -- I  
8 think the -- there's a range of -- of penalties, as it  
9 were, if one were to violate the lobbying registry. I  
10 think it -- it also has to be related to the nature of  
11 the transactions.

12 My worry is that a lot of smaller  
13 municipalities don't have a lot of big assets to sell.  
14 They have one (1) or two (2), and as we saw in  
15 Collingwood's case, I mean, we had -- you know, we had  
16 two (2) or three (3), and the biggest asset that we  
17 had for sale was subject to intense scrutiny because  
18 of -- of what transacted before the asset was sold and  
19 afterwards.

20 And then, you know, once that is --  
21 once that is concluded, there's nothing else to --  
22 nothing else to -- to ban that individual from -- from  
23 doing. So, I mean, I think in -- in smaller  
24 communities, that is a bit more challenging because  
25 the -- the biggest asset that you would have sold or

1 transacted would have already occurred.

2 MR. WILLIAM MCDOWELL: So that, I  
3 guess, logically points in the direction of the  
4 sanction going in the direction of the company doing  
5 business with -- with the municipality rather than on  
6 the lobbyist as much.

7 MR. FAREED AMIN: That's correct.  
8 I -- I would agree with that, yes.

9 THE HONOURABLE FRANK MARROCCO: That's  
10 it?

11 MR. WILLIAM MCDOWELL: Well, there's a  
12 whole lot more, but -- but that -- that was the one  
13 (1) thing that I wanted to address with Mr. Amin.

14 THE HONOURABLE FRANK MARROCCO: I  
15 didn't mean to imply that that the -- your entire  
16 thought about this matter. I just meant if there was  
17 another question for Mr. Amin.

18 MR. WILLIAM MCDOWELL: Well, that was  
19 the one (1) that was top of mind, Commissioner.

20 THE HONOURABLE FRANK MARROCCO: Okay.  
21 Thank you. Well, thank you, Mr. Amin.

22 And I would just ask you to extend to  
23 your staff our collective thanks. We've had  
24 outstanding cooperation from everyone here from day  
25 one. We've invaded your space, and staff put up with

1 us with good humour, and, as I say, gave us every  
2 cooperation we could ask for. And so please extend  
3 that courtesy.

4                   And please advise Council that we  
5 appreciate the fact that we took over the Council  
6 chamber. We tried not to excessively be in the way,  
7 but we found it very convenient to be able to work  
8 here. This is -- we thought that we were properly  
9 grounded if we were here. And so I want to -- I want  
10 to thank you for that. And I would ask you to extend  
11 our thanks to everyone.

12                   MR. FAREED AMIN: Thank you.

13                   THE HONOURABLE FRANK MARROCCO: It's  
14 quite heartfelt on our behalf.

15                   Sixty-one (61) days, I guess, of  
16 hearings. There were 650 pages of Foundation  
17 documents, half a million documents, fourteen (14)  
18 experts, five (5) panels, fourteen (14) affidavits --  
19 a tremendous amount of work to try to understand what  
20 Council had asked us to inquire into, and I hope that  
21 we have done that as efficiently as we could. It's no  
22 small undertaking that we were asked to undertake.

23                   I want to thank the participants -- all  
24 of them. We were able to more or less stay on  
25 schedule once we figured out what the schedule was

1 going to really look like because of everybody's  
2 cooperation -- the participants' cooperation.

3           And we can't -- no Inquiry can stay on  
4 course on its own just because it's decides it's going  
5 to do that. You need the cooperation from all the  
6 participants, and we had that. And I want to  
7 especially make that clear to everyone and that  
8 includes all the participants who appeared before us.

9           We will undertake the task of writing  
10 this report, and I guess it's all over to us now. And  
11 so we will assume that responsibility, and we will  
12 report back. I have -- I indicated what the target  
13 date was. I certainly got the impression from my  
14 staff that -- from the Council that I may have been  
15 optimistic in that regard, but I continue to cling to  
16 my beliefs and will so right to the end.

17           We will do our best to respond in kind  
18 to the outstanding effort everybody has made to inform  
19 us of what's at stake here, and we will report as soon  
20 as we reasonably can.

21           So thank you, all. This Phase 3 of  
22 these -- of this Inquiry is concluded, and we will  
23 report.

24

25 --- Upon adjourning at 3:35 p.m.

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3 Certified Correct,

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9 Wendy Woodworth, Ms.

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