

1 MS. DENISE BELLAMY: Thank you. Thank
2 you for inviting me to beautiful Collingwood. It was
3 a little nicer yesterday than it is today, but a
4 better day to be inside than yesterday was.

5 THE HONOURABLE FRANK MARROCCO: M-hm.

6

7 DISCUSSION:

8 MS. KATE MCGRANN: Just by way of
9 brief introduction for anyone who hasn't had the
10 opportunity to read the biography that is posted on
11 our website, or is otherwise unfamiliar with your
12 work, Ms. Bellamy is a retired Justice of the Ontario
13 Superior Court of Justice.

14 Of particular relevance to what we're
15 dealing with here today, she was the Commissioner of
16 two (2) judicial inquiries involving the City of
17 Toronto. Her report from those inquiries included two
18 hundred and forty-four (244) recommendations relating
19 to good government, including recommendations relevant
20 to governance, ethics, lobbying, and procurement.
21 Those recommendations continue to be instructive and
22 relevant today, and there is a more detailed biography
23 available on our website.

24 So thank you again for coming to speak
25 to us today.

1 MS. DENISE BELLAMY: Thank you. Well,
2 I thought what I would do here today is just give you
3 very, very brief comments about public inquiries
4 generally. A little bit about my Inquiry that went
5 from 2002 to 2005 and then deal with the policy phase
6 of my public Inquiry, and then answer any questions.

7 So very briefly, comments about public
8 inquiries, they seem to be very much a part of our --
9 our Canadian culture. We've had over five hundred
10 (500) of them since confederation.

11 When I was writing my report in 2005,
12 there were ten (10) going on in Canada at exactly the
13 same time. Now, I don't have staff anymore, so I
14 haven't done any research around any -- are going in
15 Canada at the moment, but I know there are three (3)
16 in Ontario right now. This one, there's one (1) in
17 Toronto, and there is one (1) in Hamilton.

18 They are often long, and expensive, and
19 almost always longer and more expensive than -- than
20 the government thinks they're going to be when -- when
21 the Inquiry is set up. They can also be very painful
22 experiences for a lot of people, and for those
23 involved, their lives and decisions they made, often
24 many, many years before, are put under a very public
25 microscope.

1 And finally, by law, this is not a -- a
2 public Inquiry is not a criminal or a civil trial, as
3 I'm sure you've heard Commissioner Marrocco mention it
4 many times before. And I certainly refer to it quite
5 a few times in my own Inquiries.

6 But because we have no power to send
7 anyone to jail, no power to make somebody pay back any
8 money, but the -- the purpose is to investigate what
9 happened, and make a -- do a report, and come out with
10 recommendations.

11 So this can be disappointing for the
12 public. I finished my report fourteen (14) years ago,
13 and I still have people say to me, How come no one
14 went to jail? Even though I -- at almost every speech
15 I ever gave, I referred to the fact that I -- I didn't
16 have that power. But the -- the public expects it,
17 and -- and I think some of them feel, well, why are we
18 spending all this money doing a public Inquiry if
19 nobody goes to jail, or nobody is held to account?
20 People are, in fact, held to account, but not in the
21 way where we can make them pay money or -- or have
22 them be charged criminally.

23 So in terms of the Inquiries that I
24 did, in 2002, I was a judge of the Superior Court of
25 Justice in Toronto, and I was appointed to do a public

1 Inquiry for the City of Toronto. They had had a
2 computer leasing deal that had gone a bit awkward. It
3 ballooned into far -- further -- it -- it just
4 ballooned far beyond anything Toronto City Council had
5 expected it would.

6 And so I started doing that Inquiry,
7 and then -- I -- I can't remember, four (4) or five
8 (5) months after that, they asked me to do another one
9 while I was already doing the first one, and that one
10 was called -- the first one was called the Toronto
11 Computer Leasing Inquiry, the second one was the
12 Toronto External Contracts Inquiry. And that was to
13 look at some contractual transactions that had gone
14 on.

15 So as far as I know, that's the first
16 time in Canadian history that someone has had to do
17 two (2) public inquiries going on at the same time,
18 and that had something to do with why it took a --
19 took a long time.

20 So the City basically asked me to
21 figure out what happened, what went wrong, and make
22 recommendations to try to prevent something like this
23 from happening again in the future. And ultimately, I
24 wrote one (1) report, and I separated it into four (4)
25 volumes. So instead of writing one (1) report for the

1 Toronto Computer Leasing Inquiry, and one (1) for the
2 Toronto External Contracts Inquiry, I just wrote one
3 (1) report.

4 And I -- I base -- I broke down into
5 four (4) volumes. One (1) was called Facts and
6 Findings, which was about what had happened, and the
7 other one was called Good Government, and that's the
8 part that I think is probably the most relevant to
9 this Inquiry. The third one was called Inquiry
10 Process, and it was a primer on how to do a public
11 inquiry, because nothing had really been written, at
12 least not a whole book on -- on it before, and I had
13 had to do so much research at the front end, so I was
14 trying to help all the people who came after me. And
15 I'm happy to say, though, that has been used by every
16 public Inquiry in Canada since. And then the fourth
17 was the Executive Summary.

18 Sorry, I have a cold, so I may have to
19 have a lot more water than the average person sitting
20 here. So obviously, I had to investigate what went
21 wrong. I had to find out why things ended up going so
22 badly, and how this happened when the City was
23 spending the public's money. The way I like to think
24 of it was that the -- the -- this was a story about
25 how the City went shopping with the public's money.

1 That's sort of how I thought about it.

2 But not only did I have to find out
3 what went wrong, but a significant part of my mandate
4 was to make recommendations that would be useful to
5 the City afterwards. And the Supreme Court of Canada
6 was a bit of a help, here. There have only been a
7 very few cases where the Supreme Court has discussed
8 public inquiries, and one (1) of them was incidentally
9 a case that dealt with a public Inquiry in Sarnia.

10 They said:

11 "Good government depends in part on
12 the availability of good
13 information."

14 I decided I wanted to get good
15 information that would help me to make good
16 recommendations for the City of Toronto.

17 Because I was, essentially, shining a
18 spotlight on the inner workings of the City of Toronto
19 and it was clearly vulnerable in places. So I decided
20 to try to provide a roadmap that would give direction
21 on how to prevent something like this from ever
22 happening again.

23 So I concluded that I would write a
24 separate stand-alone volume on good government that
25 would survive long after the public had forgotten the

1 facts that led to the Inquiry in the first place, so I
2 wrote this little -- this little skinny volume here.
3 Ironic, I guess, if this is on the transcript. This
4 is one -- this is the thickest of the volumes that I
5 have.

6 And just so you know, these are not all
7 my little stickies here. I borrowed this book from
8 Anna Kinastowski, who is from the City of Toronto, and
9 she lent it to me in case I need it today.

10 So I did -- this -- this policy phase
11 on good government. We -- I did it for both inquiries
12 at the same time. So we did -- finished the first
13 Inquiry, had the good government phase, the policy
14 phase that you're doing here now, and then after that
15 I started the second Inquiry, and it took three (3)
16 weeks for us to do the policy phase.

17 We heard from forty-one (41) witnesses,
18 and these people were people who had expertise in a
19 broad range of issues relating to municipal
20 government, such as the relationship between lobbyists
21 and public officials, elected or otherwise; the power
22 and influence of the mayor; the role of councillors
23 and City Council; the role of the Chief Administrative
24 Officer and senior staff in municipal government;
25 effective procurement practices; ethics, codes of

1 conduct, and conflict of interest policies.

2 The information I got from three (3)
3 weeks of listening to all these experts in different
4 areas was absolutely first rate and was significant in
5 helping me formulate my views and also prepare my
6 recommendations.

7 And ultimately, as you've heard, I made
8 two hundred and forty-four (244) recommendations,
9 addressing all of those issues. Two -- two hundred
10 and forty-one (241) of those recommendations were
11 directed to the City and the others were, I think, to
12 the province. Fourteen (14) years, I can't remember
13 if I -- if I directed them to somebody else as well.
14 And I boiled them down into four (4) general areas.

15 First was ethics, then municipal
16 governments, then lobbying, and then finally
17 procurement, and my overriding principle while I was
18 writing the report was this: How can these
19 recommendations improve city government? How can
20 these recommendations prevent these kinds of mistakes
21 or misconduct from happening again so that the public
22 would trust -- would have trust in the public
23 officials who spend their money?

24 I'm happy to say that the good
25 government volume continues to have "legs." It

1 continues to be used by the City of Toronto. It has
2 been used in municipalities across Canada. It's used
3 by lawyers who practice municipal law and it's used by
4 professors who teach a number of different issues, but
5 some of which is also public inquiries but other
6 things as well.

7 And in the final analysis, the most
8 valuable part of the report turned out to be this good
9 government volume, and this is the one that really
10 continues to be used long after, as I said, the facts
11 and findings part have -- has been forgotten to a
12 certain extent.

13 Some people remember some of the
14 individuals in the inquiry but in terms of the actual
15 facts I think, you know, people don't remember those
16 as much as this good government phase that is being
17 used by so many people now.

18 I aimed the recommendations at the City
19 of Toronto, because obviously they were the ones who
20 called the Inquiry, they were the ones who were
21 footing the bill, but I tried to write it so that at
22 least parts of it would be useful for other cities or
23 towns, regardless of the size of the city or town. I
24 never intended or expected my recommendations to be a
25 one-size-fits-all model, but it is definitely possible

1 to take my report and use the general principles in
2 the report to develop a culture of integrity and
3 transparency.

4 So that's all I wanted to say up front,
5 and if Ms. McGrann has any questions, I'm -- or anyone
6 else, I'm happy to respond.

7 MS. KATE MCGRANN: Thank you very much
8 for that. Following on your concluding remark there,
9 the first question that I have for you is, based on
10 what -- what you thought about and recommended, how do
11 you create a culture of integrity within a municipal
12 government?

13 MS. DENISE BELLAMY: I had to think
14 about that quite a lot, and I think the first seventy
15 (70) or so of my two hundred and forty-four (244)
16 recommendations dealt exactly with -- with integrity
17 and with ethical behaviour.

18 Every large institution has a culture,
19 whether it's government or -- or otherwise. Culture
20 may be formal as in a written code of conduct, or it
21 may be informal as a just general practice, and
22 informal is learned from watching what others do.

23 In my view, a government should make
24 sure that there is a written code of conduct and that
25 it remains current, and that -- that's a task that

1 takes work, attention, and encouragement.

2 And it's fine to have a code of conduct
3 on the wall, and in fact a lot of places you see that
4 on a wall, and I -- I'm very happy when I see that I'm
5 in an organization that has their code of conduct --
6 conduct placed prominently on a wall, but at a certain
7 point, the principles and the concepts laid down in
8 the code of conduct on the wall need to be taken down
9 and make sure that everyone who is supposed to be
10 guided by it actually does understand it.

11 And it can be tempting to start cutting
12 corners when you're busy, cutting ethical corners.
13 People think they won't get caught; maybe they won't.
14 But when you work in the public sector operating with
15 the trust of the public, when you work in government,
16 in an environment that is governed by freedom of
17 information legislation, and when you work for bosses,
18 internal auditors, and possibly even judges, can
19 examine your behaviour, not only can you get caught,
20 you can lose your job, create huge embarrassment to
21 yourself, family, colleagues, employer, the community.

22 So ethics matters, and -- and I -- I
23 did have someone in my Inquiry who -- who said that
24 they didn't do what they were supposed to have done
25 because they didn't think they would get caught, and

1 they certainly didn't think that there would be a
2 public inquiry looking into exactly what they had
3 done.

4 MS. KATE MCGRANN: Focusing on the
5 notion of -- of ethics for a second, is there a
6 difference between ethics as they apply within the
7 government as opposed to ethics in the -- in the
8 private sector?

9 MS. DENISE BELLAMY: I think there is.
10 I -- I would say yes, and I'm -- I think probably
11 reasonable people could disagree, but I would say yes,
12 and here's why.

13 Government officials have a duty of
14 trust to the public. They are trustees for the
15 public, and every minute of the job, every decision
16 that they make, they are required to put the public
17 interest ahead of their own interest, and that's what
18 I think makes it so different from maybe in the
19 private sector where, you know, could -- there --
20 there is still -- there's still should be a -- a
21 responsibility to act ethically, but the private
22 sector does not have a duty of trust to the public the
23 way that the -- that the public sector does.

24 So not everyone is cut out to work in
25 the public sector, and if you can't do that, if you

1 can't put the public interest before your own
2 interest, then you shouldn't work in the public sector
3 because that's not the place for you. There are lots
4 of other good places that you could work, but that's
5 not -- that's not it.

6 So, for me, it's simple. I think that
7 -- that there is a higher duty in government because
8 of the public trust component.

9 THE HONOURABLE FRANK MARROCCO: Did --
10 did you give any thought to how you -- how you protect
11 people who see something and come forward -- want to
12 come forward with it?

13 The -- the reason I ask that question,
14 is a person who does that, is -- you know, exposing
15 themselves internally potentially, and I'm -- and I'm
16 not sure that heroism should be expected, if -- if --
17 if you know what I -- I mean.

18 MS. DENIS BELLAMY: M-hm.

19 THE HONOURABLE FRANK MARROCCO: That
20 the person should -- person who has a mortgage to pay
21 or rent to pay, a family to educate, should be
22 required to put themselves in kind of jeopardy because
23 they're not playing ball.

24 I -- I don't mean, I should say for the
25 benefit of anybody watching, I don't mean by my

1 questions to signal that I've formed a conclusion
2 about anything, but I think the issue flows naturally
3 out of a situation where a public employee sees
4 something that they don't agree with.

5 Did you give any thought -- did that
6 come up at all in -- in what you were looking at?

7 MS. DENISE BELLAMY: Well, I -- I see
8 two (2) components to your question. One may have to
9 do with whistleblowing, and the other might be
10 speaking truth to power.

11 And I didn't have anything specifically
12 with whistleblowing, although I'm reaching back here,
13 there was one witness who I ended up having more
14 evidence from one witness who said she was being
15 penalized, I think, because of something that she had
16 said during the Inquiry. And so I conducted my own
17 investigation into that during the hearing of the
18 Inquiry.

19 But if -- if the question is really
20 directed at how does one speak truth to power, and
21 that is something I think that happens all the time in
22 government, it is part of the responsibility in
23 government to speak truth to power.

24 And -- and in terms of my inquiry, that
25 came up pretty much all the time. It came up

1 regularly in questions that -- cross -- examination
2 in-chief and cross-examination of government
3 witnesses, the issue of speaking truth to power would
4 come up.

5 And it is a difficult concept and it is
6 hard. I worked in the Provincial Government for
7 seventeen (17) years before I became a judge, and I
8 worked for -- in governments, there was the
9 Conservative Government, the Liberals, the NDP, and so
10 as a public servant you have a responsibility to be
11 neutral, and the more senior you are, I think the more
12 you have a responsibility to speak truth to power.

13 And it is difficult, because you're
14 right, that somebody has a mortgage may not -- may be
15 concerned about saying something that might end up
16 getting them fired.

17 That may be a whistle-blowing thing and
18 it may be that there's, I don't know in -- whether
19 there's any legislation protecting Municipal employees
20 from whistleblowing, I don't know, I never had to
21 consider that and I -- and I've just been too out of
22 the area for too long to know whether that exists.

23 But in terms of speaking truth to
24 power, I think the closer -- the more senior you are,
25 the more of a responsibility that you have to speak to

1 truth to power.

2 Now, you can -- you know, there are
3 ways of saying things that are unpalatable to people,
4 and I certainly had to do it with certain cabinet
5 ministers and tell them that, you know, they had run
6 on a platform and they came in and they wanted to do
7 something and I'd have to say I'm sorry, you can't --
8 you can do it if you want, but it's not legal. So,
9 I'm telling you it's not legal. What you do with that
10 information is now up to you.

11 And -- and I think in Municipal
12 Government, I'm not so naive as to think that -- that
13 someone who is working in a junior administrative role
14 should have to take on the mayor, for example, just to
15 give that as an example, or even the deputy mayor or
16 the -- or the town manager.

17 But in government, there is a
18 hierarchy, everybody has someone that they can talk to
19 and everybody has a boss until you get to the top one.

20 And so these people, each one (1) of
21 them can go to the next level higher up from them, and
22 if they see something that -- that should be reported,
23 then they have somebody that they can tell.

24 And once they've told that person,
25 they've done their job. You know, once a person who

1 sees something says I feel like I need to tell
2 somebody this, then they tell their boss and a --
3 their job is now done.

4 If their boss chooses not to go any
5 further with that because, let's say the boss says,
6 you know, that really isn't a big issue, you may think
7 it is, but it really isn't, then that's a decision
8 that that person makes.

9 But I think that -- that in government,
10 there is a responsibility to tell truth to power. I
11 think the councillors and the mayor have a right to
12 expect that public servants will give them the best
13 and most honest advice that they possibly can.

14 They have a responsibility to be
15 neutral and not political, if they're staff, but they
16 have -- they do have a responsibility to provide the
17 best, honest, truthful information that they can to
18 council, to allow council or a councillor to come to
19 the decision that they need to come to.

20 I don't know if -- I don't know the
21 fact situation that you might have, so I'm not sure if
22 I'm answering.

23 THE HONOURABLE FRANK MARROCCO: No,
24 no, it wasn't -- you are answering the question. It
25 wasn't directed so much specifically towards our

1 facts, as it just seems to me that's a general problem
2 you have if you want to come forward, and I was just
3 curious what you thought of it.

4 MS. DENISE BELLAMY: Well, I think --
5 I actually think it's a fundamental duty of public
6 servants to do that. I think when you -- when you
7 take on that job, you have a fundamental duty, for
8 senior public servants in particular, to speak truth
9 to power.

10 And you know, if people -- it can be --
11 it can be difficult.

12 You know what? I refer to this,
13 actually, I think it's page 87 of my report.

14 MS. KATE MCGRANN: And we can pull
15 that up on the screen as well, it's at CJI114537.

16 MS. DENISE BELLAMY: It's
17 recommendation 87, not --

18 So recommendation 87, because this was
19 where I had to deal with speaking truth to power.

20 So I wrote:

21 "The substance of staff reports
22 should always be guided by the maxim
23 that one must tell truth to power.
24 Staff have a duty to give the best
25 and most accurate impartial advice

1 possible without regard for policies
2 or for what they think a councillor
3 does or does not want to hear.
4 Councillors should understand this
5 important aspect of staff's role and
6 not shoot the messenger when staff
7 advice is politically unwelcome."

8 So that says in writing what I -- what
9 I'm sort of ad-libbing here in front of you now.

10 But I think they have a duty to tell
11 councillors, or their own supervisors, what they need
12 to hear, not necessarily what they want to hear.

13 And they have -- that is a
14 responsibility that they have as public servants.

15 MR. WILLIAM MCDOWELL: If I could just
16 --

17 MS. DENISE BELLAMY: I agree that it's
18 not always easy.

19 MR. WILLIAM MCDOWELL: If I could just
20 jump in with a question.

21 THE HONOURABLE FRANK MARROCCO: Yes,
22 just -- just before you do that, that's the general
23 format here, so you shouldn't hesitate to -- to ask a
24 question if it occurs to you. There's no particular
25 order to this.

1 MR. WILLIAM MCDOWELL: That's what I'd
2 understood from Ms. McGrann.

3 So, just on this point about staff
4 reports, I take it it's your view that when staff are
5 forming their advice, they should do that
6 independently and in isolation from the politicians
7 that -- you know, the advice is the advice to the
8 politicians, it's not the politicians saying here's
9 the kind of advice we'd like to receive.

10 Does that follow, or...?

11 MS. DENISE BELLAMY: I wasn't thinking
12 that -- well, I mean, I'm not sure where you're going.

13 I was thinking that -- that public
14 servants have a duty to speak truth to power. So in
15 my view, that's just an absolute responsibility that
16 they have.

17 I'm acknowledging that the more junior
18 you are, the harder it is to do that. But what I'm
19 saying is that you still have a duty to tell your
20 supervisor, then -- who then has the duty to go
21 further with it, depending on what the information is.

22 I see a separate role for politicians,
23 for elected officials, and for staff. And I think
24 that -- that the political people are the ones who
25 decide what the policy should be, and that the staff

1 are the ones who work out how to implement that policy
2 if the policy is one that can be implemented.

3 I think they have a responsibility to
4 tell them, the staff have a responsibility to tell the
5 elected officials if -- if they say, you know, we
6 actually can't do that, the Municipal Act doesn't
7 allow it or something like that. They have that
8 responsibility to tell them.

9 In the final analysis, the decision is
10 a political one and it's the politicians who have to
11 decide if they want to go forward with something when
12 they've been given information that it's not -- that
13 it's illegal, say.

14 MR. WILLIAM MCDOWELL: Right. Can I
15 ask another question? I actually do have your reports
16 on my bookshelf from prior experience, and the -- most
17 recently, they've been borrowed by the people who were
18 looking at the Hamilton Inquiry. So --

19 MS. DENISE BELLAMY: Okay.

20 MR. WILLIAM MCDOWELL: -- there is a
21 currency to your work that carries on. One (1) of the
22 features of your inquiry was that there were certain
23 people in Toronto who, whether they were formally
24 lobbyists or not, had tremendous access to both the
25 political level and the staff, one (1) prominent

1 lawyer that I can -- can think of.

2 And I think when you were doing your
3 inquiry it was a bit of a surprise to all of us that
4 this was going on because we had no idea.

5 MS. DENISE BELLAMY: Uh-huh.

6 MR. WILLIAM MCDOWELL: What sorts of
7 recommendations did you bring to bear in this
8 phenomenon of -- of powerful individuals who have --
9 who have all of these contacts and are able to carry
10 on sub rows of what they're doing where public money's
11 being spent as a result?

12 MS. DENISE BELLAMY: I refer to it
13 specifically in the facts and findings part of the
14 report. In fact, it was re -- it was quoted in the
15 Toronto Star just the other day in relation to Jim
16 Karygiannis.

17 And it was -- that individual that
18 you're talking about was referred to in that article.
19 In terms of the recommendations, I chose to -- to use
20 -- to put all of those recommendations of some -- into
21 the area of lobbying.

22 And I thought that lobbying was,
23 instead of dealing with just that one (1) individual,
24 which I did in the course of the facts and findings
25 part of the inquiry, I -- I recommended that there be

1 a lobbyist register -- registry.

2 They didn't have a la -- a lobbyist
3 registrar at that time, and I recommended that there
4 be one (1). And then I made a whole mess of
5 recommendations, a hu -- I know I can't remember, a
6 hundred or so, I think, on lobbying itself to get
7 around, not just that one (1) issue, but to, you know,
8 branch it out into other things because in Toronto
9 then, a lobbyist used to sit right -- right around --
10 I assume this is city council's -- council chambers.

11 Well, they would come into the council
12 chambers and -- and chat to the -- the councillors.
13 And sometimes they would give them the money that
14 others had -- had asked them to give to the particular
15 councillor when an election was coming up or whatever.

16 So, what I was looking at was trying to
17 formalize something or make it a bit more formal
18 system so that -- that that sort of lobbying by
19 someone who happens to know every one of the
20 councillors didn't happen, that it was more of a level
21 playing field for everybody who might -- I -- because
22 I didn't have a problem with the concept of lobbying.

23 I mean, I -- I -- in fact, I think I --
24 I said something about lobbying, that -- that it --
25 it's fine as long as there are controls on it.

1 But one (1) of the things that was
2 happening is that somebody would lobby -- you know,
3 lobby outside of council, outside of the office, and
4 you'd have no way of knowing. No one would know what
5 was going on then.

6 And so, that was the sort of thing I
7 was trying to regulate.

8 MR. WILLIAM MCDOWELL: Right. But --
9 but --

10 MS. DENISE BELLAMY: Does that address
11 what you're --

12 MR. WILLIAM MCDOWELL: Absolutely.
13 And -- and part of the thrust of what you said in your
14 report is that there is regulatory force just to
15 having the fact of -- of the lobbying disclosed.

16 MS. DENISE BELLAMY: M-hm.

17 MR. WILLIAM MCDOWELL: So, in other
18 words, lobbying's not going to stop if it has to be
19 registered --

20 MS. DENISE BELLAMY: No.

21 MR. WILLIAM MCDOWELL: -- if it's on a
22 website and people can see it. But --

23 MS. DENISE BELLAMY: No.

24 MR. WILLIAM MCDOWELL: -- at least we
25 know what the influences are that are being brought to

1 bear.

2 MS. DENISE BELLAMY: No. I thought
3 there was some -- there -- there is actually some very
4 good stuff that can come out of lobbying because you
5 can find out information that you might otherwise not
6 know anything about.

7 But it -- it -- if it's controlled,
8 then I think it works better than if it's uncontrolled
9 because in an uncontrolled setting, you know, we -- we
10 ha -- you do have a situation where one (1) or two (2)
11 kingpins can come in.

12 And everybody knows that this is the
13 person who can help you get re-elected because they
14 have access to so much more money. I can talk about
15 that later if you'd like or I can talk about lobbying
16 now, whatever.

17 THE HONOURABLE FRANK MARROCCO: Just
18 before we -- we get to the lobbying, you touched on it
19 a few minutes ago, this issue of public confidence in
20 -- in the governance process.

21 Sometimes people can have an attitude
22 that the end result is important and a good thing and
23 that the process gets in the way of getting there is
24 and, therefore, more burdensome than it is beneficial.

25 And I wondered if -- if you had

1 encountered that kind of -- of thinking in your -- not
2 necessarily in your report, but just in your
3 experience preparing --

4 MS. DENISE BELLAMY: No. Even -- even
5 during the Inquiry, one (1) of the things that made it
6 so difficult for the city of Toronto was that there
7 had -- that there -- they dealt with amalgamation
8 which was a huge deal.

9 And -- and there was all of the stuff
10 going on with Y2K. We forget about it all now but, at
11 the time, the -- the earth was going to fall apart if
12 the number of zeros weren't in the right spot or
13 something.

14 And -- and when -- and when there was
15 amalgamation, there were different mayors for each of
16 the munic -- the -- the city -- the municipalities
17 before. And then suddenly, there was one (1) mayor
18 for all.

19 And different regions of Toronto had
20 different views about how to conduct business, and --
21 and they were very open about that. I think Mayor
22 Lastman was -- was very open about saying we are open
23 for business, the city is open for business and North
24 York was the city with heart.

25 And they were more focussed on getting

1 things done and getting things done quickly and trying
2 not to have too much red tape, which is not uncommon,
3 you know, for -- different people come in.

4 And -- and I think Rob Ford, when he
5 became the mayor in Toronto, ha -- also had the view,
6 well, I just want to get it done, I don't want to have
7 to worry about all the red ta -- the process.

8 So, I think different politicians come
9 in and different -- some of them want to go -- are
10 prepared to go through whatever the steps are. Some
11 want to get right to the end.

12 And sometimes getting right to the end
13 is not necessarily a bad thing if it can be done well
14 and with consensus and people all agree that it should
15 it be done.

16 I'm not a big fan of bullying, but
17 sometimes -- sometimes there's a reason to go through
18 a process, and procurement is one (1) of those for
19 sure reasons where you have -- you should go through -
20 - in my view anyway.

21 I ended up spending a lot of time on
22 procurement and -- and gave a lot of recommendations
23 on procurement, so.

24 THE HONOURABLE FRANK MARROCCO: But in
25 -- in -- procurement's a good a point of reference or

1 -- or touchstone as any other. You said there's a
2 good reason to go through it.

3 I -- I'd like to get a sense of the
4 reason why you res -- that it's important to respect a
5 process where you're dealing with a procurement issue
6 from -- from your perspective.

7 MS. DENISE BELLAMY: Well, getting
8 back to my phrase of shopping with the public's money.
9 Procurement is the -- the -- the biggest shopping with
10 the people's money that gets done in -- in government.

11 And I think that the public has a right
12 to expect, because it's their money that's being spent
13 -- they have a right to expect that -- that the
14 elected officials, the staff, everybody is going to
15 spend their money, the public's money, in an honest,
16 reasonable, transparent way.

17 And in procurement, I feel that the
18 politicians -- oops, sorry -- should -- have --
19 definitely have a role to play, but it's at the front
20 end and the back end and not much in the middle or
21 during.

22 So, you know, they -- do they have --
23 should they participate in the policy, the -- the
24 elected officials? Absolutely. They should be
25 developing the policy.

1 Am I going in the wrong -- off on a
2 wrong tangent here? No. Okay. They should develop
3 the policy for sure, and that's a political decision.
4 They should maybe decide the timing of when something
5 will go on.

6 But once they've made the decision to
7 have a request for a proposal or request for
8 quotations or whatever the terminology that keeps
9 changing -- whatever they have, once they've done
10 that, then it goes to the public servants.

11 And then they are the ones who should
12 have exclusive jurisdiction over the tendering process
13 because, if the politicians come in at that point,
14 let's say one (1) councillor comes in and starts
15 talking to one (1) public servant about stuff, well,
16 that councillor is only speaking for himself or
17 herself. They're not speaking for all of Council.

18 And -- and the -- in -- the -- the --
19 the tendering process has to be protected from a
20 conflict of interest that a councillor might have or
21 that Council has as a rule or whatever. And it's the
22 public servants, I think, who can put all of that
23 together better and that they're the ones who should -
24 - who should deal with the details of the tendering
25 process.

1 And once the -- once something has gone
2 out for tender, then the elected official should have
3 no involvement whatsoever until the -- they receive a
4 recommendation from the -- the staff as to which one
5 or ones that the staff is recommending. And at that
6 point, then they discuss it in committee or in Council
7 as a whole, and then they make a decision. But I
8 don't think they should have any involvement in the
9 actual -- once it has actually gone to tender, because
10 that just gets them into trouble.

11 THE HONOURABLE FRANK MARROCCO: All
12 right.

13 MS. KATE MCGRANN: A theme, I think,
14 that -- pardon me, I see in your recommendations, at
15 least, is the importance of the public trust being
16 foremost in the minds of -- of councillors and staff
17 and also that being apparent to members of the public,
18 so it must be done, and it must also be seen to be
19 done.

20 MS. DENISE BELLAMY: M-hm, m-hm.

21 MS. KATE MCGRANN: Can you help us
22 understand why that's important?

23 MS. DENISE BELLAMY: Well, we have a
24 legal maxim that is, not only must justice be done, it
25 must be seen to be done. And I think -- again, I feel

1 that when we're spending the public's money, the
2 public has a right to expect that the -- that what --
3 those people who have been given that trust are doing
4 everything that they are required to do, that they're
5 all playing together so that, you know, everybody
6 knows what's going on who need -- everyone who needs
7 to know knows what's going on, and that at the end of
8 the day -- let's say, on a procurement. This happens
9 quite often in -- or, not often, but it can happen in
10 procurement that somebody contests afterwards the
11 results of the deci -- the tendering decision.

12 Well, if it's not transparent, then
13 there's no way to tell whether or not the winners
14 should really have been the winners. That's not fair
15 to the winners, and it's not fair to the losers, and
16 it's not fair to the public, because the public, I
17 think, has a right to expect that the staff will be
18 working together and will have appropriate processes
19 in place so that they can go through the procurement,
20 go through the tendering process, and -- and in the
21 final analysis, you know, make the appropriate
22 recommendation.

23 But if there is no transparency, if
24 there's no accountability, then -- then they're
25 mispending the public's money.

1 THE HONOURABLE FRANK MARROCCO: How
2 does -- how do you -- how do you -- how do you ensure
3 transparency? Like, how do you -- how do you address
4 it?

5 MS. DENISE BELLAMY: I think that
6 transparency is a -- is, let's say, a form of ethical
7 behaviour. That's how I would look at it. And in
8 ethical -- in ethics, the -- you -- I -- you have to
9 start at the top. The mayor is the public face of
10 city government, or a town government, and it's the
11 mayor and Council who have to understand that you have
12 to be transparent and that you have to put the public
13 interest first.

14 They're all kind of interrelated, I
15 think, but it starts at the top. It has to be the
16 mayor, and it has to be councillors, and -- and then
17 from there -- because the mayor is the most visible
18 public servant. The mayor is the one (1) who is
19 generally on the news, the public face of municipal
20 government, and that's the person people go to, and
21 that's the people -- who is elected by all of the
22 individuals, as opposed to just somebody in one (1)
23 riding.

24 And it's the mayor who sets the tone.
25 The mayor sets the tone on transparency, on ethics, on

1 integrity, all of that. Now, maybe that's naive on my
2 part, but I think that -- that in all of these things,
3 the tone has to come from the top, and if it doesn't,
4 then the people at -- in the bottom or lower down
5 think, Oh, I don't have to do this. Why do I have to
6 do this? He or she isn't even doing it, so why -- and
7 I did see that in my inquiry. The people said, Sure,
8 let's go to this golf game or that hockey thing
9 because I saw -- I saw a -- a councillor there. So if
10 the councillor is there, then why can't I go?

11 But I think that it -- it applies to
12 anyone in leadership position who is -- who is in the
13 situation where they're spending public money has a
14 responsibility to act with integrity and to be
15 transparent, because it's not -- it's not their money.
16 It's our money. It's our tax-paying money, our
17 ratepayers, whatever you want to call it -- all of us
18 are the ones who -- we have no choice, even, about
19 giving Council our money or the City our money, the
20 Town. We have to.

21 So -- but we do it with the expectation
22 that it's going to be used properly, and one (1) of
23 the ways that we, the taxpayers, can know that it's
24 being used properly is if the work that's being done
25 is transparent, if we know that the people who are --

1 are in charge are ethical people and who are committed
2 to integrity. I think integrity is one -- is a very
3 important role for the mayor, as it would be for the
4 premier or -- or the prime minister. I think the top
5 -- the top person has -- has to demonstrate integrity,
6 ethical conduct, transparency, and that all trickles
7 down.

8 THE HONOURABLE FRANK MARROCCO: Would
9 you -- would you say the -- the same thing about
10 accoun -- accountability for the dec -- for the --

11 MS. DENISE BELLAMY: Well, ultimately
12 --

13 THE HONOURABLE FRANK MARROCCO: --
14 pending decision?

15 MS. DENISE BELLAMY: -- the buck stops
16 with the mayor, or -- or the town manager, depending
17 on what level it is. But yeah, I think -- I mean,
18 you're -- you're being accountable because you have
19 the public trust, because you have the public's money.
20 You're accountable for the public's money, so you have
21 a responsibility.

22 When you're going shopping with that
23 money -- when you're going shopping with my money, I
24 want you to be accountable, I want you to be
25 transparent, I want you to -- I want you to be honest,

1 I want you to be ethical, because you're spending my
2 money.

3 THE HONOURABLE FRANK MARROCCO: It --
4 it -- it seems to me, it's -- it's -- it's difficult -
5 - can be difficult to hold people accountable, because
6 a problem always -- doesn't always present itself
7 immediately.

8 MS. DENISE BELLAMY: M-hm.

9 THE HONOURABLE FRANK MARROCCO: People
10 are --

11 MS. DENISE BELLAMY: M-hm.

12 THE HONOURABLE FRANK MARROCCO: -- are
13 gone, and the decision's been made.

14 MS. DENISE BELLAMY: That, for sure,
15 can happen. I mean, people are being held accountable
16 every day on all sorts of things in -- in -- in all
17 levels of government, but there are times when
18 decisions are made, and then it's only quite a long
19 time after that that one discovers that there was a
20 problem. And I'd venture to say that that's probably
21 the case in the facts of most public inquiries,
22 because it's only after you realize that something has
23 gone awry that you think, Whoa, what happened here?
24 We have to find out what happened.

25 Sometimes, you can find out what

1 happened fairly easily. Sometimes, maybe you need an
2 auditor to come in. Sometimes, you need a public
3 inquiry. But I think it --

4 THE HONOURABLE FRANK MARROCCO: What's
5 -- what's the -- what's the end product? If you're
6 conducting the Inquiry, and -- and you -- you inve --
7 you investigate, you're -- you make recommendations,
8 but what's the ultimate -- in your view, what's the
9 ultimate goal?

10 MS. DENISE BELLAMY: Of the
11 recommendations?

12 THE HONOURABLE FRANK MARROCCO: Of the
13 Inquiry process.

14 MS. DENISE BELLAMY: Well, that's a
15 big philosophical question, I guess. I think, I mean,
16 it's a very -- to me, it's practical. In -- in my
17 case, I felt if people are shopping with my money,
18 they have a responsibility to do it ethically,
19 transparently, et cetera. They have to be accountable
20 for the decision they made.

21 And in this case, in my case, it was --
22 the City of Toronto decided to have a public inquiry,
23 not just on -- on the leasing contract that had gone
24 wrong, but then afterwards, a whole bunch of other
25 contracts in the second Inquiry. And so my job, then,

1 as the commissioner was to find out what happened, and
2 by doing what you did I -- in the first two (2) phases
3 is -- is hearing evidence and people testifying under
4 oath or affirmation, and then making a decision about
5 what -- what I thought happened, and then making
6 recommendations based on those decisions and the
7 policy panel that I thought would help move the
8 government forward.

9 What I did in mine was that -- I think
10 the last recommendation I made was that the mayor
11 should report within a year on all my recommendations
12 to council and say what -- what he had done to fulfill
13 those recommendations, which was a different mayor by
14 then, and -- and he did.

15 THE HONOURABLE FRANK MARROCCO: Do you
16 think it's a purpose of the Inquiry to -- I wouldn't
17 say restore, because that implies something's been
18 lost, but to -- to enhance or to -- to make sure that
19 there's public trust in the -- in the public
20 institution, in the decision-making process of the
21 institution?

22 MS. DENISE BELLAMY: That's a good
23 question. I don't know if it's the role of the
24 commissioner to make -- to -- to do that. But I think
25 that what does happen, just by the very process, is

1 that by airing out the dirty linen, as it were, in
2 such a public way, that what can happen is that the
3 public, the people whose money has been spent, can
4 take a look and say oh, so that's what happened, okay,
5 well, you know, they might say oh, that's not so bad
6 then. Or they might say oh, my goodness, that's
7 terrible, that's the worst -- that's even worse than
8 what I expected.

9 I think the process of the public
10 inquiry itself can go some way to restoring confidence
11 in -- in the -- in the town or the city, because what
12 is happening is by having called the public inquiry,
13 in essence, they're saying we want you, judge, if it's
14 a judge, we want you and we're giving you carte
15 blanche to take a look at everything and it's all
16 being aired in public and we want you to tell us what
17 you think happened.

18 But as that's going along, it's being
19 reported and people are seeing what's happening, and I
20 -- it reminds me of Leonard Cohen, the first -- my
21 Leonard Cohen quote that I started the Inquiry with is
22 "There is a crack in everything, that's how the light
23 gets in."

24 And I think that what the public
25 inquiry does, is it shines a light through the crack

1 that has been discovered, which is why the government
2 ordered or asked for the public inquiry in the first
3 place.

4 MS. KATE MCGRANN: I'd like to turn to
5 some more specific questions about recommendations
6 that you made in your report, and you've talked this
7 morning about the importance of transparency and
8 you've referenced conflicts of interest and the
9 importance of addressing those.

10 MS. DENISE BELLAMY: M-hm.

11 MS. KATE MCGRANN: The question I have
12 for you is: Do you see a difference between a conflict
13 of interest and an apparent conflict of interest?

14 MS. DENISE BELLAMY: I think there
15 will be others addressing this as a full panel, but to
16 me they are two (2) sides of the same coin, and I
17 think they're both equally important.

18 Apparent conflict of interest, as
19 opposed to actual conflict of interest tends to get
20 short shrift, and I don't think it should. I think
21 there's two (2) sides of the same coin and apparent
22 conflict of interest is sometimes even more important
23 than actual conflict of interest.

24 And -- and the reason for that is when
25 it's a -- when the person has an actual conflict of

1 interest, the presumption generally is that people
2 will prefer their own personal interests over, say,
3 the public good.

4 In an apparent conflict of interest,
5 it's not so obvious. What does it look like? What's
6 the perception? How does -- how does this look?
7 Would a reasonably informed person conclude that the
8 person does or doesn't have a conflict of interest, or
9 might be swayed in making a decision because it looks
10 -- it looks a bit fishy.

11 And during my good government policy
12 phase, one (1) of the people who -- who was present
13 was retired Court of Appeal Justice Coulter Osborne,
14 he was then the city -- the integrity commissioner.

15 And he said that when he talked to
16 provincial politicians about apparent conflict of
17 interest, he framed it this way: so if you wake up in
18 the morning and you see this matter being explored on
19 the front page of Toronto's papers, how is that going
20 to affect you politically?

21 You might not have an actual conflict
22 of interest, but it doesn't look good. It doesn't
23 smell good. How is that going to affect you
24 politically? That was how he framed it.

25 And I've heard -- and I'm sure all of

1 us here have heard people say well, you know, that's
2 just hogwash, I can't be bought. Nobody can buy my
3 vote.

4 Well, that might be true. It may very
5 well be true that nobody can buy that person's vote or
6 that they can't be bought. But how would a reasonably
7 informed observer, with the facts that they have, ever
8 know that that person isn't being bought. And that's
9 why I think apparent conflict of interest is just as
10 important as conflict of interest.

11 And -- and in my inquiry I'll honestly
12 -- I tried so hard to make sure that -- that none of
13 us in the Inquiry were having either an actual
14 conflict of interest or an appearance of a conflict of
15 interest, because I was examining that.

16 So I didn't want any of my staff to
17 have that problem. And it made it difficult even
18 finding lawyers, because the City had so many lawyers
19 on retainer, so many law firms on retainer, that I
20 didn't want it to look like I was hiring somebody who
21 might favour the City because they had, you know, they
22 made money from the City and -- and it might not even
23 have been a big contract, but I just thought it was so
24 important when I was examining something like this in
25 the first place not to do anything myself that would

1 bring any disrepute to the Inquiry.

2 MS. KATE MCGRANN: Shifting focus
3 somewhat, you made a series of recommendations about
4 the benchmarks of good governance and you've spoken --

5 MS. DENISE BELLAMY: About what,
6 sorry?

7 MS. KATE MCGRANN: The benchmarks of
8 good governance. I'm sorry.

9 MS. DENISE BELLAMY: Oh, yes. M-hm.

10 MS. KATE MCGRANN: And you've spoken
11 this morning already a bit about the respective roles
12 of council and staff.

13 MS. DENISE BELLAMY: M-hm.

14 MS. KATE MCGRANN: I wonder if you
15 could discuss some of the recommendations that you
16 made with respect to the importance of those roles and
17 how they can be encouraged and maintained, the
18 boundaries between those two (2).

19 MS. DENISE BELLAMY: Okay. I probably
20 covered a little bit of this already, but in -- as I
21 said earlier, the mayor is the face of the city
22 government, both internally and externally.

23 And I believe that maintaining the
24 integrity of government should be really -- if not the
25 mayor's top priority, then one (1) of them, because

1 everything stems from integrity and integrity should
2 inform all of his or her decisions.

3 In terms of benchmarks of good
4 governance, I was actually quite troubled by the
5 massive workload that faced the mayor and councils --
6 councillors.

7 I -- I was quite taken aback when I saw
8 how much they had to go through at every meeting that
9 they had, there would just be hundreds and hundreds of
10 pages, thousands sometimes, that they had to read.

11 And so I recommended that they urgently
12 find ways to reduce their workload. And to me, an
13 obvious way was to concentrate on matters of policy
14 and delegate the administrative day-to-day operations
15 to -- to their staff. Because what -- what I saw was
16 a lot of councillors were very involved in the day-to-
17 day detail of stuff.

18 And they had all these perfectly
19 competent public servants there who could do all of
20 that work for them.

21 So I recommended that they stick to
22 policy and that the -- the staff deal with
23 implementing that policy.

24 And then with respect to staff and good
25 governance, and I mentioned this earlier in talking

1 about speaking truth to power, is that they should be
2 neutral and not politicized in any way, that they --
3 they have to remember that they answer to council as a
4 whole, not to one (1) individual councillor. They
5 answer to council as a whole.

6 And they're supposed to provide
7 impartial advice and direction to councillors in the
8 discharge of their duties to council, not in their
9 discharge of the duties as the individual councillor.

10 So they have to be careful, I felt, to
11 ensure that any close working relationship that they
12 developed with a councillor didn't override that --
13 that duty, or did not cross into the political sphere,
14 because it -- it can happen.

15 You know, people work very closely
16 together and -- and as I say, I was a public servant
17 for seventeen (17) years in the Ontario Government and
18 I worked for three (3) different political stripes, I
19 knew what each one (1) wanted and it would be easy at
20 times to just say well, you know, I know that they're
21 not even going to think of this as an option.

22 But I felt that they should know if it
23 was a viable option, that there was -- they should
24 know that it was a viable option, and -- and then give
25 that information to those individuals.

1 In terms of the mayor, I -- I did make
2 some comments about the mayor and in my case it was
3 the -- the city, the manager, in your case I guess it
4 would be the town manager, I think.

5 MS. KATE MCGRANN: Chief
6 Administrative Officer.

7 MS. DENISE BELLAMY: Oh, the CAO.
8 Okay. That there should be a -- a clear division of
9 responsibility between those two (2) positions; that I
10 acknowledge that they each -- that -- that they should
11 acknowledge they each have a role, but it's different
12 from the other person. The political role is
13 different from being the head of the public service.

14 And there's a separation between the
15 political and the administration. And for each of
16 them, in their own sphere, the buck stops with them.
17 But they each have to respect that -- that the public
18 servant is not a political person, not supposed to be
19 a political person.

20 And you know, when you work closely
21 together it can be easy to forget that sometimes, but
22 in -- in the final analysis, when the buck stops with
23 them, they each have to remember that they have a
24 different role.

25 MS. KATE MCGRANN: In our discussion

1 this morning you've made reference to recommendations
2 that you made in your report about lobbying activity.

3 MS. DENISE BELLAMY: M-hm.

4 MS. KATE MCGRANN: You've referenced
5 the fact that you recommended that a code of conduct
6 be implemented for lobbyists. I wonder if you could
7 speak a little more specifically about the elements of
8 the code of conduct that you recommended and why you
9 felt they were important?

10 MS. DENISE BELLAMY: I made a lot of
11 recommendation -- well, maybe -- maybe not as many as
12 on procurement, maybe only thirty (30) or thirty-five
13 (35) or something like that.

14 But my main thing was that they needed
15 to get a lobbyist registry because that -- that simply
16 didn't exist at the time. And then what I did is I
17 gave them a list of the sorts of things that a
18 lobbyist registrar should do and that some of the
19 things that -- that lobbyists should or shouldn't do.

20 So, for example, one (1) of the things
21 I said was that lobbyists should lobby during regular
22 office hours and -- and office locations wherever
23 possible and that they should not place an elected
24 official or city staff member in a conflict of
25 interest.

1 Now, this wasn't always so easy. And -
2 - and I -- I know -- I have a farm in Bruce County.
3 And when my report came out, I talked to a guy, a
4 neighbour, who was on cou -- council.

5 And he says, Well, what am I supposed
6 to do, I'm in the Independent Grocer and somebody
7 comes up to me and starts talking to me about
8 something that's coming up before council, and they're
9 clearly lobbying me, you know, what am I supposed to
10 do, you want me to meet them in my office.

11 And I said, Well, that's true, I do
12 because my concern is, to be accountable, you have to
13 be transparent. And there are ways of getting around
14 that. You know, there are ways in a -- in a -- not
15 just a small community, but even a large community, of
16 saying, well, why don't you come and meet me in my
17 office or why don't we get together or make -- here's
18 my card, make an appointment, we'll -- we can talk
19 about.

20 And then there is at least a paper
21 trail of what's going on. But otherwise, I just felt
22 that there was a lot that was happening that nobody
23 knew anything about. And I was trying to make it more
24 -- more transparent so that they could be more
25 accountable.

1 THE HONOURABLE FRANK MARROCCO: Do you
2 think that financial arrangements between the lobbyist
3 and the client -- lobbyist's client should be
4 disclosed?

5 MS. DENISE BELLAMY: To whom?

6 THE HONOURABLE FRANK MARROCCO: To the
7 public.

8

9 (BRIEF PAUSE)

10

11 MS. DENISE BELLAMY: I -- I think I
12 made recommendations about that in the -- in the -- on
13 the part on lobbying on what sorts of things should be
14 in there.

15 I'm not really sure myself. I think --
16 you have people coming to talk about lobbying, and
17 they might be -- know that better than I because I've
18 sort of been out of the lobbying business for a while
19 now.

20 THE HONOURABLE FRANK MARROCCO: Oh,
21 and I -- I wouldn't he -- I won't hesitate to ask --
22 ask them --

23 MS. DENISE BELLAMY: Yeah.

24 THE HONOURABLE FRANK MARROCCO: -- the
25 question. It -- it was just --

1 MS. DENISE BELLAMY: Well, I -- I
2 think -- sorry.

3 THE HONOURABLE FRANK MARROCCO: --
4 depending on the size of the fee or the method by
5 which it's -- it's calculated, this may or may not
6 change the appearance of what's going on.

7 MS. DENISE BELLAMY: Yeah. I -- I'm
8 just -- I'd have to think about the privacy component
9 of -- of that for the individual who's making money as
10 a lobbyist, and I just have not thought that one --

11 THE HONOURABLE FRANK MARROCCO: Yeah.

12 MS. DENISE BELLAMY: -- all the way
13 through.

14 MR. WILLIAM MCDOWELL: Just on that --

15 MS. DENISE BELLAMY: I don't mean to
16 duck the question, but --

17 THE HONOURABLE FRANK MARROCCO: No,
18 no, no. I -- I don't think it begets a simple answer
19 necessarily. I just --

20 MR. WILLIAM MCDOWELL: No, but I guess
21 thinking about that, if -- if you only lobby during
22 regular business hours --

23 MS. DENISE BELLAMY: Yes.

24 MR. WILLIAM MCDOWELL: -- if you
25 disclose the fact of the lobbying, so each time

1 there's a contact, you know that the contact is there,
2 I mean, the more that you know about the process, I
3 guess the less important it is to know about the
4 global fee?

5 MS. DENISE BELLAMY: M-hm.

6 MR. WILLIAM MCDOWELL: But it's -- but
7 it's --

8 MS. DENISE BELLAMY: Yeah. Well, and
9 I -- I think --

10 MR. WILLIAM MCDOWELL: It's a tricky
11 question.

12 MS. DENISE BELLAMY: I'm just worried
13 about the -- the privacy component of it. You know,
14 if -- if I'm a lobbyist and I'm working for 'A', 'B',
15 'C', and 'D' company and one (1) is paying me -- one
16 (1) I managed to get a higher fee than I did for the
17 others, or the others -- is the one who -- that I paid
18 the higher fee for, are they going to say, well, look
19 at, I just found out that you -- you're not charging
20 these others as much, and I want to be charged the
21 same as them.

22 I don't know. I just -- that's the
23 only -- I -- I'm just trying to think on my feet here
24 -- or not my -- whatever, that --

25 MR. WILLIAM MCDOWELL: But I guess the

1 worry is that there does seem to be something
2 insidious if there were enormous success fees attached
3 to gaining public business because that -- that at
4 least potentially changes the perception --

5 MS. DENISE BELLAMY: M-hm.

6 MR. WILLIAM MCDOWELL: -- in the
7 public mind about whether or not the procurement
8 decision has been made on its merits or whether or not
9 the success fee somehow or other has kind of inserted
10 itself into the --

11 MS. DENISE BELLAMY: M-hm.

12 MR. WILLIAM MCDOWELL: -- into the
13 analysis?

14 MS. DENISE BELLAMY: I think I made a
15 recommendation on success fees. Did I? You probably
16 know better than I.

17 MR. WILLIAM MCDOWELL: I --

18 MS. DENISE BELLAMY: I can't remember.
19 I remember success fees certainly had come up. And
20 it's fourteen (14) years since I wrote the report, so
21 I didn't look specifically at success fees. But I
22 think I made a recommendation that success fees should
23 not be --

24 MR. WILLIAM MCDOWELL: Yeah. Yeah, I
25 think you did.

1 MS. DENISE BELLAMY: -- allowed.

2 MR. WILLIAM MCDOWELL: I was trying to
3 find it, but I --

4 MS. DENISE BELLAMY: Yeah.

5 MR. WILLIAM MCDOWELL: -- I couldn't
6 quickly because you have to go through the PDF, which
7 is --

8 MS. DENISE BELLAMY: I know.

9 MR. WILLIAM MCDOWELL: -- a hundred
10 pages long.

11 MS. DENISE BELLAMY: I know. We
12 should talk to the city about that, you know, because
13 it used to not be on PDF.

14 MR. WILLIAM MCDOWELL: Now, can I ask -
15 - this is sort of an odd question, but it's one (1)
16 that comes up from time to time, and that is where you
17 have elected officials who have charity golf
18 tournaments or charity events. It was a feature in
19 Mississauga I know, and it came up the other day with
20 Premier Ford, Premier Ford taking people to charity
21 dinners or people --

22 MS. DENISE BELLAMY: M-hm.

23 MR. WILLIAM MCDOWELL: -- purchasing
24 ta -- seats at the table at a charity event where the
25 premier was present. How do you regulate that?

1 Because the defence of these events is always that,
2 look, this is for a good cause and it's raising money
3 and there's -- you know, it's in public and -- but
4 it's something that seems to pop up as an issue every
5 few years.

6 MS. DENISE BELLAMY: It's not
7 something I've spent a lot of time thinking about as
8 it certainly never came up in the --

9 MR. WILLIAM MCDOWELL: No, I don't --
10 I don't recall it, but --

11 MS. DENISE BELLAMY: Did that come in
12 my report? I mean, certainly things came up in terms
13 of golf games and charity things. But --

14 MR. WILLIAM MCDOWELL: Flights to
15 Philadelphia?

16 MS. DENISE BELLAMY: But I seem to
17 remember that the -- that the liberal government had
18 developed a policy on it. And then that got changed
19 recently with the -- the next government that came in.

20 So, I -- it looks like reasonable
21 people can disagree about how something should be
22 dealt with, but it's not something that I have any
23 particular expertise in --

24 MR. WILLIAM MCDOWELL: And --

25 MS. DENISE BELLAMY: -- unless I've

1 totally forgotten.

2 MR. WILLIAM MCDOWELL: I don't think
3 so. I mean -- but it's -- the problem is that you
4 want transparency in all of these dealings. And I
5 guess if -- well, I mean, the -- the worry is that
6 it's a way of covertly allowing a lot of contact --

7 MS. DENISE BELLAMY: M-hm.

8 MR. WILLIAM MCDOWELL: -- under the
9 shelter of this charitable event, number 1. Number 2,
10 the worry is always that, if you're the patron of the
11 event, you know, if you're the premier or you're the
12 mayor or whoever and people are buying tables to these
13 event, that you'll look more favourably on them than
14 you might on people who weren't as free with their
15 charitable spending.

16 MS. DENISE BELLAMY: I do have
17 somewhat of a rele -- recollection of Mayor Lastman
18 talking about that.

19 But my -- my recollection is that he --
20 he was at something like that, where somebody paid to
21 sit at a table with him, but he didn't know who any of
22 the people were anyway and -- and he didn't really
23 talk to all of them anyway.

24 So, I don't think I made any
25 recommendations about it or -- or that there was

1 anything specific. But I know that the former city
2 solicitor of Toronto is here, and so she might
3 remember if there's anything, but I don't recall
4 anything.

5 THE HONOURABLE FRANK MARROCCO: I
6 think from my perspective, I just wanted to get an
7 impression.

8 MS. DENISE BELLAMY: Yeah.

9 THE HONOURABLE FRANK MARROCCO: I
10 think what I might do is take the short morning break
11 for about fifteen (15) minutes or so.

12

13 --- Upon recessing at 11:15 a.m.

14 --- Upon resuming at 11:33 a.m.

15

16 MS. DENISE BELLAMY: I wonder if I
17 might just a -- add a couple things. It's been
18 brought to my attention that I made some
19 recommendations that -- my recommendation in number
20 112, in answer to Mr. McDowell's question on success
21 fees, I recommended that:

22 "Lobbyists dealing with the City
23 should not be permitted to receive
24 contingency fees or any other type
25 of bonus or commission tied to a

1 successful outcome."

2 So -- and then on Recommendation
3 119(h), I addressed the question about the amount pay
4 -- being paid to a lobbyist. I said:

5 "The total amount paid to the
6 lobbyist for the lobbying activity
7 should be included. To -- to accord
8 the lobbyist some privacy on
9 financial matters, the amount paid
10 can be a choice of preset ranges" --
11 -- and then I give a range.

12 MS. KATE MCGRANN: Thank you.

13 MS. DENISE BELLAMY: Hard to remember
14 all two hundred and forty-four (244).

15 MS. KATE MCGRANN: All important, but
16 it's quite a number.

17 MS. DENISE BELLAMY: I should have
18 made only ten (10) or something. I'd remember ten
19 (10).

20 THE HONOURABLE FRANK MARROCCO: Not --
21 not a memory test.

22 MS. KATE MCGRANN: In your comments,
23 you -- you've discussed procurement processes, and I
24 wanted to ask you a couple of more specific questions
25 about recommendations you made with respect to

1 procurements. First of all, could you comment on --
2 on the appropriateness of lobbying during a
3 procurement process?

4 MS. DENISE BELLAMY: Sure. There
5 shouldn't be any. I mean, during -- during the
6 procurement process -- I don't think there should be
7 any lobbying of any kind during a government
8 procurement process, and I did make recommendations
9 about that.

10 And -- and part of the reason for that
11 -- this is what scandals are -- are made of.
12 Government procurement is one (1) of those areas that
13 is subject to the most intense lobbying, because
14 that's where the private sector makes their money,
15 generally, is on -- on procurement issues. And if
16 lobbying didn't work, lobbyists wouldn't do it.

17 So this is -- during the procurement
18 process, there should be none, absolutely none. I'm
19 not very flexible on that, but maybe, maybe. Depends
20 on the question.

21 THE HONOURABLE FRANK MARROCCO: In --
22 in your view, when does that process start?

23 MS. DENISE BELLAMY: Well, I think it
24 can probably be fluid, because sometimes, the one (1)
25 I saw -- and I don't profess to be an -- an expert on

1 procurement, but I did see a situation where,
2 sometimes, there was an invitation to people who would
3 likely lobby -- not lobby, but would likely bid on
4 something to get a sense of what the quote should even
5 contain, because sometimes the -- the subject matter
6 is pretty esoteric and -- and the government doesn't
7 even really know the questions it should be asking.

8 THE HONOURABLE FRANK MARROCCO: M-hm.

9 MS. DENISE BELLAMY: So it invites
10 people to come in and talk to them about, What
11 questions should we be asking? So in a way, that's a
12 start, but I wouldn't describe that as a start from a
13 lobbying perspective. To me -- is once there is a
14 fixed date for the tender to be dropped in the mailbox
15 or whatever the -- the slot -- that once that fixed
16 time happens, that's it.

17 From then until probably when the --
18 the public servants have made a decision and
19 recommendations to Council, there should be no
20 lobbying of public servants who are doing the analysis
21 at that point and no lobbying of councillor --
22 councillors should cer -- certainly not be getting
23 involved at that point and talking to staff about --
24 about the tender, in my view. But, you know, if you
25 have people here who know more about procurement, then

1 I would a hundred (100) percent defer to them.

2 THE HONOURABLE FRANK MARROCCO: You --
3 and as I say, we'll ask the question probably of more
4 than one (1) person.

5 MS. DENISE BELLAMY: M-hm.

6 THE HONOURABLE FRANK MARROCCO: You
7 did -- I don't think you dealt with this in your
8 report -- correct me if -- if I'm wrong -- but were
9 you dealing with a sole-source purchase?

10 MS. DENISE BELLAMY: M-hm.

11 THE HONOURABLE FRANK MARROCCO: Does
12 that -- does -- does that result in any kind of --
13 does that suggest anything else to you other than what
14 you've said? And as I say, I appreciate I don't think
15 you had that situation, but --

16 MS. DENISE BELLAMY: I did -- well, I
17 -- I didn't have the situation, but I -- I did make a
18 recommendation on sole -- single-source processing.
19 It's Recommendation 146. I said:

20 "There -- there should be a strong
21 presumption in favour of mandatory
22 competitive tendering for all
23 significant city prosec --
24 procurements. Critar -- criteria
25 for exemption from mandatory

1 tendering should be tightly defined
2 in advance."

3 So I think there are definitely times
4 when single-source procurement or tendering makes
5 sense. So for example, let's say one (1) supplier has
6 a monopoly, or it's necessary to ensure compatibility
7 with products that the Town already has, or maybe it
8 wouldn't be economical or -- or the -- the -- the --
9 the service or the product is urgently needed.

10 So I think there are certain
11 circumstances where single-source tendering is fine,
12 but -- and -- but I see that as an exemption, as an
13 exception and an exemption. But Council should be the
14 one to decide when there would be an exemption from
15 mandatory tendering and what that criteria should be.

16 THE HONOURABLE FRANK MARROCCO:
17 Thanks.

18 MS. DENISE BELLAMY: This might be a
19 good area to get the -- legal services involved, if
20 there happens to be one (1) in the community, because
21 the -- the more complicated it is, and the more likely
22 it's to go into single sourcing, and sometimes that
23 can create a -- a problem, and I certainly would
24 recommend that they get appropriate legal advice.

25 THE HONOURABLE FRANK MARROCCO: And I

1 -- I wondered if it -- you know, if you -- if you, as
2 you did, pose the idea that there's a point where
3 there should be no further lobbying.

4 MS. DENISE BELLAMY: M-hm.

5 THE HONOURABLE FRANK MARROCCO: If
6 it's a single-source procurement, people are kind of
7 fixed on who is going to -- who the supply --

8 MS. DENISE BELLAMY: M-hm.

9 THE HONOURABLE FRANK MARROCCO: -- I'm
10 just trying to figure out when that --

11 MS. DENISE BELLAMY: Well, I think
12 Coun --

13 THE HONOURABLE FRANK MARROCCO: --
14 procurement starts, if you like. So it would be from
15 the -- maybe -- I'll see what the other panel thinks,
16 but perhaps from the moment you decide that that's
17 what you're going to do.

18 MS. DENISE BELLAMY: That's what I was
19 going to -- to say, that once Council decides that
20 they're going to veer away from single-source
21 procurement, then at that point -- and -- and then the
22 staff send out the tendering documents or send out the
23 request for -- Request For Proposal. Once they get
24 that, right? I don't even know -- I don't know
25 exactly how it works when you have only one (1)

1 person. You don -- I don't know if you even have a
2 request for a proposal --

3 THE HONOURABLE FRANK MARROCCO: No, I
4 don't know.

5 MS. DENISE BELLAMY: -- or you just
6 approach the pers --

7 THE HONOURABLE FRANK MARROCCO: You
8 could, I guess.

9 MS. DENISE BELLAMY: -- entity and
10 say, What have you got here?

11 MS. KATE MCGRANN: You've talked about
12 the importance of -- the public interest being the
13 guiding principle in everything that the municipal
14 government does.

15 With respect to procurement, spending
16 the public's money in the public interest, in your
17 mind, does that necessarily mean pursuing the lowest
18 price in every event, for example?

19 MS. DENISE BELLAMY: I -- I don't
20 think that hav -- getting the lowest price is -- is
21 the only result that can happen. I think price is,
22 obviously, an essential ingredient of value, but it's
23 not the only ingredient. And it's not the only
24 ingredient when we're talking about sound governance
25 in the public sector, because the public sector

1 considers something that maybe the private sector
2 wouldn't necessarily consider, and that is the
3 government's overall objectives.

4 So let's just say, to -- to give an
5 example, if one (1) of their -- their objectives is to
6 stimulate the local economy, and somebody else comes -
7 - somebody not from the local area comes up with
8 something that is cheaper than what the local person
9 or company has -- has -- has put forward, then it
10 might be more expensive because it's local, but it is
11 fulfilling one (1) of the -- of the policy goals of
12 Council. So while generally, lowest price tends to be
13 what people think about, it does -- that's not
14 necessarily the best value for a government.

15

16 (BRIEF PAUSE)

17

18 MR. WILLIAM MCDOWELL: Just while Ms.
19 McGrann's looking for --

20 MS. DENISE BELLAMY: Yes.

21 MR. WILLIAM MCDOWELL: -- her next
22 area of inquiry, let me -- let me -- this may be
23 skipping to the end or not, but could we pull up, if
24 you have it, from the executive summary of Justice
25 Bellamy's report, as she then was, paragraph 56.

1 (BRIEF PAUSE)

2

3 MR. WILLIAM MCDOWELL: Or I guess it
4 would be Recommendation 56.

5 MS. DENISE BELLAMY: Is that the --
6 about code of conduct?

7 MR. WILLIAM MCDOWELL: This is the one
8 -- I can just read it to you --

9 MS. DENISE BELLAMY: M-hm.

10 MR. WILLIAM MCDOWELL: -- and get you
11 to expand on it. So --

12 MS. DENISE BELLAMY: Is this:

13 "The city should include a term in"

14 --

15 MR. WILLIAM MCDOWELL: That's the one.

16 MS. DENISE BELLAMY:

17 -- "in all procurement documents
18 providing sanctions if a business
19 fails to adhere to the city's
20 relevant codes of conduct"?

21 MR. WILLIAM MCDOWELL: Right.

22 MS. DENISE BELLAMY: Right.

23 MR. WILLIAM MCDOWELL: Because the
24 question -- and this is prompted by the circumstances
25 here, but not -- not just those circumstances. It

1 seems to me there have to be real -- there have to be
2 real teeth in this --

3 MS. DENISE BELLAMY: M-hm.

4 MR. WILLIAM MCDOWELL: --
5 recommendation so that if you discover that there's
6 been illicit lobbying or there's been some kind of
7 improper conduct in the midst of the procurement, you
8 can actually disqualify the bidder on the spot or --
9 or cancel the RFP or whatever it is. But I,
10 obviously, would like to hear your thoughts about
11 that.

12 MS. DENISE BELLAMY: Yeah. I remember
13 thinking about it at the time and wondering -- I think
14 I sort of left that up to -- up to the city to decide,
15 I think, because I don't know that I had enough
16 information at that time to be able to -- to say
17 categorically that something should be disqualified as
18 a result of something.

19 And in some things, for example, like
20 the code of conduct, I said these are the general
21 things that should be in a code of conduct, but I
22 didn't say, here's the code of conduct that I think
23 you should have, because I was trying to provide
24 general guidance, but I wanted them to also decide for
25 themselves what would -- what is going to work best

1 for you, and is it going to work best for you to have
2 me say, this is what you should do.

3 I thought it would be best for the City
4 to have some of that come from the bottom up.

5 MR. WILLIAM MCDOWELL: Right.

6 MS. DENISE BELLAMY: And when they
7 were developing our lobbyist registry, than -- but
8 that -- but I -- I know what you're saying. I
9 understand what you're saying, because it's -- if
10 there's no teeth in it, then why -- why bother working
11 to -- to come within the code of conduct?

12 MR. WILLIAM MCDOWELL: Right, because,
13 I mean, the central thing that kicked off your Inquiry
14 was really prompted, the Toronto Council that called
15 your Inquiry, was there had been this lease extension
16 for \$80 odd million that was done in a very mysterious
17 way, and --

18 MS. DENISE BELLAMY: Hmm.

19 MR. WILLIAM MCDOWELL: -- and so I
20 guess the -- the thought is that where you discover
21 that there's been some kind of improper sharing of
22 confidential information or something, it's probably
23 not good enough to -- to be able to say in a reactive
24 way, well, we're going to impose sanctions now that
25 you've got the \$85 million contract, or whatever it

1 is. You want to be able to unwind it on the spot, or
2 regularize the process.

3 But -- but I hear you, that in -- in
4 the peculiar circumstances of your Inquiry --

5 MS. DENISE BELLAMY: M-hm.

6 MR. WILLIAM MCDOWELL: -- there was
7 a bit of a -- you didn't have quite enough information
8 to ground that recommendation.

9 MS. DENISE BELLAMY: M-hm. I -- I was
10 trying to give them as many thoughts that I had about
11 what they should consider including in a lobbyist
12 registry, and -- and on the ones where I was comp --
13 that I felt pretty certain should be in there, I would
14 say that.

15 But if I -- on something like that, the
16 implications could be just so different, you know,
17 with -- it could be that it's not a big transgression,
18 but it's a transgression, or it could be a massive
19 one, and, you know, to have -- to sort -- I wouldn't
20 want to do a one (1) size fits all kind of
21 recommendation.

22 MR. WILLIAM MCDOWELL: Well, I guess
23 you could make it presumptive, so that if -- if you
24 have breached the code in some way, the presumption is
25 that you will be disqualified, or you'll lose the

1 contract that had been awarded, but make the case that
2 -- that shouldn't happen, for whatever reason, that it
3 was inadvertent conduct, or it was minor conduct, or
4 whatever.

5 MS. DENISE BELLAMY: Well, you know, I
6 -- I really don't know the answer to that. You -- you
7 have -- you have a bunch of people coming in in the
8 next few days who do nothing but that kind of work,
9 and --

10 MR. WILLIAM MCDOWELL: M-hm.

11 MS. DENISE BELLAMY: -- I would defer
12 to them, just --

13 MR. WILLIAM MCDOWELL: Well, the --
14 the other thing is, we're fourteen (14) years on --

15 MS. DENISE BELLAMY: Yeah.

16 MR. WILLIAM MCDOWELL: -- you know,
17 from --

18 MS. DENISE BELLAMY: Longer, really.
19 Fourteen (14) years was just the --

20 MR. WILLIAM MCDOWELL: Right.

21 MS. DENISE BELLAMY: -- the result.

22 MR. WILLIAM MCDOWELL: But the -- but
23 frankly, the world changed because of your --

24 MS. DENISE BELLAMY: Yeah.

25 MR. WILLIAM MCDOWELL: -- report, and

1 we're -- we're building on that. So we'll hear from --

2 MS. DENISE BELLAMY: Right, right.

3 And -- and I know -- I -- I have spoken to the
4 integrity commissioner at certain times, and I -- and
5 I know there are things that got developed after I
6 made recommendations. Some things they accepted, some
7 they -- they didn't, I think. I don't know which.

8 But, you know, it's an ongoing learning
9 process, for -- at least for the City of Toronto's
10 integrity commissioner --

11 MR. WILLIAM MCDOWELL: M-hm.

12 MS. DENISE BELLAMY: -- or lobbyist.
13 I -- I haven't really talked so much to the lobbyist
14 registrar. It's really the integrity commissioner.

15 MR. WILLIAM MCDOWELL: Thanks.

16 MS. KATE MCGRANN: The -- that is the
17 end of the specific questions that I had for you, so
18 I'll just turn to -- to everybody else in here, and
19 see if anybody else wanted to jump in with anything
20 further before I ask you if our questions raise any
21 closing remarks that you'd like to make, or if there's
22 anything else you'd like to add to -- to what you've
23 said to us this morning.

24 MS. DENISE BELLAMY: I might just wish
25 you all a lot of good luck.

1 THE HONOURABLE FRANK MARROCCO:

2 Thanks. I wish -- I wish -- I wish you didn't think
3 we needed good luck, but --

4 MS. DENISE BELLAMY: Well, I know it's
5 --

6 THE HONOURABLE FRANK MARROCCO: --
7 thank you for the thought.

8 MS. DENISE BELLAMY: -- it -- it's
9 difficult. It's a difficult thing. It's difficult
10 for everybody concerned, the -- as I said, you know,
11 at the very beginning, some peoples' jobs are at
12 stake, or -- or the -- the community loses a bit of
13 respect for the process, or the community itself can
14 suffer, and so it's -- it's a -- it's tough, and it's
15 a -- I -- I have the greatest of respect for this
16 Commissioner, and I wish you all the best of luck in -
17 - in getting good recommendations and timely
18 recommendations.

19 As I said, there -- the inquiries are
20 always longer and more expensive than anyone ever
21 thought.

22 THE HONOURABLE FRANK MARROCCO: We're
23 working it timely, but thank you for an excellent --

24 MS. DENISE BELLAMY: Thank you.

25 THE HONOURABLE FRANK MARROCCO: --

1 kickoff to the policy phase, very much appreciated.

2 Thank you.

3 We will -- we will stand down until --
4 what -- do you have --

5 MS. KATE MCGRANN: We're back at two
6 o'clock.

7 THE HONOURABLE FRANK MARROCCO: Two
8 o'clock, so we'll stand down until two o'clock.

9

10 --- Upon recessing at 11:50 a.m.

11 --- Upon resuming at 2:02 p.m.

12

13 THE HONOURABLE FRANK MARROCCO: Good
14 afternoon. I should have said this morning, on behalf
15 of the Inquiry, emphasized the fact that the panels
16 are contributing their time and expertise to our
17 effort, and to thank all of you for that, and to thank
18 Ms. Bellamy, who is still here, and to thank the
19 panels in advance, the ones that are coming tomorrow,
20 Friday, and Monday. Thank you for your contribution.

21 Mr. Mather, go ahead.

22

23 DISCUSSION:

24 MR. JOHN MATHER: So the first panel
25 we have will be discussing roles and responsibilities