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Thursday 8 December 2005

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Jeudi 8 décembre 2005

**Standing committee on
the Legislative Assembly**

Duffins Rouge Agricultural
Preserve Act, 2005

**Comité permanent de
l'Assemblée législative**

Loi de 2005 sur la Réserve
agricole de Duffins-Rouge

Chair: Bob Delaney
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Thursday 8 December 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Jeudi 8 décembre 2005

*The committee met at 1529 in committee room 1.*DUFFINS ROUGE AGRICULTURAL
PRESERVE ACT, 2005
LOI DE 2005 SUR LA RÉSERVE
AGRICOLE DE DUFFINS-ROUGE

Consideration of Bill 16, An Act respecting the Duffins Rouge Agri-cultural Preserve / Projet de loi 16, Loi concernant la Réserve agricole de Duffins-Rouge.

The Chair (Mr. Bob Delaney): Good afternoon, everyone. This is the standing committee on the Legislative Assembly. We're meeting today for consideration of Bill 16, An Act respecting the Duffins Rouge Agricultural Preserve.

SUBCOMMITTEE REPORT

The Chair: Our first order of business is adoption of the subcommittee report. Mr. Orazietti.

Interjection.

Mr. Rosario Marchese (Trinity–Spadina): Does he have to read it for the record?

The Chair: Yes.

If you wish, given the condition of your voice, you can ask Mr. McMeekin to read it.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): Your subcommittee on committee business met on Monday, December 5, 2005, to consider the method of proceeding on Bill 16, An Act respecting the Duffins Rouge Agricultural Preserve, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Bill 16 at its regular meeting time on Thursday, December 8, 2005.

That's today; right now.

(2) That notice of the hearings be provided by news release through Canada Newswire, and also be posted on the Ontario parliamentary channel and on the Internet.

(3) That the Ministry of Natural Resources be invited to provide a technical briefing to the committee on Thursday, December 8, 2005, at 3:30 p.m. for up to 20 minutes.

(4) That each party be allowed up to five minutes for opening statements at the beginning of public hearings.

(5) That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses.

(6) That clause-by-clause consideration of the bill be scheduled on Monday, December 12, 2005, subject to authorization by the House of committee meeting time.

(7) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

That is the report of the subcommittee.

The Chair: Motion to adopt? Mr. Orazietti.

All in favour? Opposed? Carried.

Next order of business: The subcommittee report was silent on the time for clause-by-clause consideration of Bill 16. Can I have a motion for our meeting on Monday?

Mr. David Orazietti (Sault Ste. Marie): I move that the committee meet on Monday, December 12—excuse my voice here—at 10 a.m. for clause-by-clause consideration.

The Chair: Mr. Orazietti has moved that clause-by-clause consideration begin Monday, December 12, 2005, at 10 a.m. Discussion? Those in favour? Carried.

The subcommittee report was silent on the deadline for filing proposed amendments, which is conventionally 4 p.m. on the close of business the day before, so that would make it 4 p.m. on Friday. Discussion? Carried.

Finally, off the topic of this bill, would the committee move to reschedule its meeting regarding the review of the use of technology in the chamber for next Thursday, December 15, 2005, after routine proceedings? All right? Done.

Mr. Tim Peterson (Mississauga South): You're rescheduling that—

The Chair: Yes, next Thursday, December 15, after routine proceedings.

Mr. Marchese: Instead of today.

The Chair: Instead of today; this one superseded it.

MINISTRY OF NATURAL RESOURCES

The Chair: At this point, we move to the technical briefing by the Ministry of Natural Resources staff. Welcome this afternoon. Perhaps you could begin by introducing yourselves and any delegation from the ministry that may be here, and then proceed.

Mr. Kevin Wilson: Good afternoon, Chair, and thank you. My name is Kevin Wilson. I'm the assistant deputy minister with the natural resource management division with the Ministry of Natural Resources. Here with me is

a manager from our lands and waters branch, Eric Boysen. Eric will be walking through our technical presentation of the bill for you this afternoon.

The Chair: Please proceed.

Mr. Eric Boysen: My name is Eric Boysen. I'm a manager of the land management section. The section I'm responsible for has carriage of a whole bunch of public lands administration, and therefore I was intimately involved in the issues of the easements and how they work. With me, I've got Krystine Lintell who, as legal counsel, has been involved in the drafting of the bill, and Rick Laprairie, who's with our central agency liaison and deals with a lot of interaction of government policy and how to interpret that into action.

In front of you, we've given you a short slide presentation. Before I launch into that, I would just ask whether you would like to get a refresher on the history of the issue, or whether you would prefer to dispense with that part. There are two slides that give you the background, but I understand this has been dealt with in the House already.

Mr. Marchese: Dispense.

The Chair: Motion to dispense. Dispense.

Mr. Boysen: Given that, let's flip forward to slide number 5. Our intent here today is to give you a broad outline of what the act is and to answer any questions that you may have as to how the act works and how it may be enacted when it's finally passed.

Bill 16 is An Act respecting the Duffins Rouge Agricultural Preserve. The proposed legislation will—and this is a very important point—reinstate the easements previously held and released by the city of Pickering. That was the focus of this legislation, and it was the issue that drove the bill itself.

It will ensure that all conservation easements in the Duffins Rouge Agricultural Preserve are held in perpetuity. That was the key point of the agreement that was made between the Ontario Realty Corp., the provincial government and the landowners, that these lands are very important for agricultural purposes and perpetuity was a very key concept. As you know, less than five years after the easements were registered, some of them were taken off title. So that wasn't a very long period of perpetuity. That's one of the issues we're trying to address.

We want to also protect the province from financial actions and liabilities related to the reinstatement of these easements.

Slide number 6, the purpose of the bill: The bill overrides any agreement or court order that invalidates an easement or covenant given or entered into under the Conservation Land Act on or before February 28, 2005.

The bill will also amend the Conservation Land Act, which is a piece of legislation that's administered by the Ministry of Natural Resources, to clarify, first of all, an easement or covenant under the act to be for the conservation, preservation or protection of land for agricultural purposes. That was a point of dispute for some of the people who were dealing with this issue, and this amendment will clarify that.

The amendment of the CLA will also clarify that an easement is valid for the term specified in it and cannot be released or amended without the consent of the Minister of Natural Resources. We're basically asking that any amendment to an easement be brought back into a public forum, that it can't just be a business transaction that removes a covenant that was registered.

The results of this bill, on slide number 7: If passed, these legislative changes would support a number of other government initiatives, including some of those in our own ministry that support the long-term stewardship of our natural heritage on private land. These include the Greenbelt Act, the Oak Ridges Moraine Conservation Act, the Ontario Heritage Act and Ontario's biodiversity strategy, which was a strategy that was just passed and approved by the House and written by our ministry in the springtime; and then our own MNR natural spaces program, which is a program that was announced by the Premier and our minister in August.

I've put a map at the back. There had been some confusion in both the press and some people's minds as to what part of the Duffins Rouge Agricultural Preserve we've actually been talking about. I do have coloured copies if that would be of better assistance to the members.

The Duffins Rouge Agricultural Preserve was a broader area that was, as you know, part of an area that was expropriated to develop the planned Pickering airport in the 1970s. It extended over into York region, but this act specifically deals with those lands that are in the region of Durham and the easements were held by the city of Pickering. So it's very much focused in on this geographic area that you see in the map in front of you.

The act itself is not very long. I think you've suggested it should go to clause-by-clause reading, but if there are any questions about the functioning of the act, the purpose of the act or how this might work, we'd be glad to address those questions right now.

The Chair: Thank you. Questions and comments?

Seeing none, then, thank you very much for coming today and for your briefing.

At this point, we normally have opening statements. Is there a desire for opening statements?

Mr. Marchese: Mr. Chair, can I move that we dispense with the five-minute statements, if there's agreement?

The Chair: Mr. Marchese has moved dispensing with opening statements. Any problem with that? OK, carried.

ROB LYON

The Chair: That brings us to our first deputant, if he's in the room. Is Mr. Rob Lyon in the room? Not only do we run on time at Queen's Park, but sometimes you get on early.

Welcome this afternoon. You have 10 minutes to present to us. If you choose to leave any part of the 10 minutes free for questions, then I'll divide the time

evenly among the parties for questions. The floor is yours. Welcome and please continue.

Mr. Rob Lyon: Good afternoon. Thank you for the opportunity. My name is Rob Lyon, and I live in the Duffins Rouge Agricultural Preserve. I purchased my property—my wife and I purchased it—about five years ago on the open market, MLS listing. We paid full MLS list price for it, and we have a 980-square-foot bungalow. My neighbours on both sides have 11,000-square-foot and 5,000-square-foot homes. I'm rather the odd person out.

1540

Just so that you understand where the agricultural preserve is, the top of it is Highway 407, the bottom of it is the York-Durham sanitary trunk sewer, the road through the middle is a four-lane highway called Taunton Road, the boundary on the west is Townline Road and, of course, on the east is Duffins Creek. It has two municipal water reservoirs that exist at this present time.

My wife and I bought this home to have privacy and a better location. We've worked very hard to develop our home. We've upgraded it. I am here to unanimously vote down this bill and to find another way to do what you're proposing.

The agricultural easements that are in question were placed only on 47 of 96 properties which were sold. That constitutes 49%; 49% is not even a majority. Properties in the agricultural preserve that were sold with easements were 49%; the ones without were 51%. They varied in size between just a few acres up to over 100. My neighbour, Betty Burkholder, her property is almost 200 acres and it has no easement.

I'd like to speak a little bit about respect. Under the Charter of Rights and Freedoms, 15(1) says, "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination." I feel that this bill is discriminatory. To pass it is to deny me my rights, and it is to rebuke democracy. As most of you are democratically elected, I think that's self-evident. To reinstate these easements would discriminate against me and the other people who are landowners or homeowners in the ag preserve. It should be on all properties or it should be on no properties, but it shouldn't be on 49%, because that is clearly discriminatory. Please find another way.

Much has been said about the sale of the agricultural preserve lands. Ontario Realty Corp. sold the lands back to the farmers, as it was required to. In 1972, it expropriated those lands. Under section 42 of the Expropriations Act, under which they were expropriated, it had a duty, when it no longer chose to do what it had wanted to with those lands—it no longer chose to develop them as a century city, as it was first projected—it had to sell them back. It had to sell them back at fair market value. I actually went and met with the head of MPAC—the supervisor for agriculture for the province for MPAC—and he said fair market value is 3,000 to 5,000 acres, willing seller, willing buyer. Very clearly, the farmers didn't get a great deal; they got fair market value.

Further, there's a letter to the clerk of the city of Pickering, dated January 19, 2002—and I've included a copy just so you can reference it—from the Ontario Realty Corp. executive vice-president. His name is Brad Searchfield. He stated, "The business affairs of the farmers is, of course, their private business. Similarly, after Ontario Realty Corp. transfers land pursuant to the program, it is the right of an individual in this country to convey their property as they see fit." If you read through that letter, which I've enclosed for your benefit, you'll see that the government, at the time of the sale, was well aware of it—that it only put it on 49% is clearly an oversight. So now, I'm asking you to find a better way to do this. Reinstating these easements is problematic for all of us.

Meetings, meetings, meetings: I've been to so many meetings. Five years ago, there was a meeting that started; it was a public event within walking distance, out the back door from my house. Mr. Jim Robb sponsored it and David Crombie, Sewell, Ecker—we had a lot of people who came and spoke. Mr. Robb handed out flyers, which clearly said that it was a public resource and that it was theirs. It's not a public resource; the land belongs to individual people. It had been sold, as required by law, to these people and they sold it to someone else: quel dommage. It's not a public resource. He didn't change it. He stuck to this until he'd handed out thousands of these things, yet he apologized to my wife fairly recently for making what he called a "clerical error" or something.

The Crombie task force was tasked to have a look at this. I have a copy of their mandate. Mr. Crombie was clearly outside of their mandate, yet he went on to drop Markham and have principle 6, which is agricultural preserve in perpetuity. In perpetuity, according to most lawyers, and I'm sure we have some here, is 91 years, worst case—absolute worst case. It's a life in being, plus 21 years. Worst case, 91 years.

There have been more and more meetings: smart communities workshops, the greenbelt meetings, and they go on and on. I've been to many of these meetings, and all I advocate for is a fair, open, public and transparent process. I'm still waiting for that. I'm still waiting. It's regrettable.

The agricultural preserve is the most controlled piece of property on the face of Canada. We have two ministerial zoning orders, the Greenbelt Act and the OPDA, which is now planning on how to turn the agricultural preserve into 10- to 20-acre parcels for hobby farms. John van Nostrand is the consultant for the Minister of Municipal Affairs, and that's his vision for the agricultural preserve. It's not to produce farms; he wants non-viable hobby farms, where the principal source of income is from other people, from other sources.

I'm dismayed by the lack of honesty in and around this issue. Environmental Defence Canada handed out pumpkins a year ago on Halloween. I'm sure many of you even received them. Their actual claim was that it's near—actually, I made a mistake when I wrote it because the inference was very clearly that these pumpkins were grown in the agricultural preserve. I'm here to tell you

that none of those pumpkins were grown in the ag preserve, because my crop failed. The pumpkin plant grew and it didn't produce any pumpkins, so there were no pumpkins grown in the preserve. The pumpkins that were given out at Queen's Park were given out as a publicity stunt. Dr. Rick Smith has actually confirmed that they were grown in Markham. "But it's near; it's close." If it was so near or close, why didn't they hand out oranges or something that people could actually eat, instead of pumpkins? It's a pretty sad reflection on the environment movement that they have to resort to this sort of deceit, trickery or whatever you care to call it. I'm very disappointed in this.

The responsibility to govern is the greatest privilege that a democracy has to offer, and you have that privilege. You all govern. You are collectively the government. You have the choice. You are elected freely by the people. It's clearly a privilege, but I'd like to quote something for you: "To ignore the obligation to confront difficult ethical dilemmas and unclear or inappropriate rules is to ignore the essence of public service." You are all in public service. I actually referenced where that came from.

I'd like you to find another way to do this. If this is clearly your undertaking—

The Chair: Just to advise you, you have a little bit more than a minute remaining.

Mr. Lyon: The implementation of the Duffins Rouge Agricultural Preserve Act may be in the greater public interest and it may be a tribute to the government, but not if it's a law passed as it is. It does more to derision than anything else. The rift between urban and rural dwellers is now a chasm and growing wider every day. The very farmers this legislation purports to protect are protesting it.

1550

My last comment: It is said that within government, values are what one does when no one else is looking. Everyone is looking at this, at the values of your government on this issue, and waiting to see how you will act. However, as Canadians, as Ontarians, we should all accept only a fair, intelligent, sustainable environmental decision based on science and economics. If the Duffins Rouge Agricultural Preserve Act is it, it's a pretty sad reflection.

The Chair: Thank you.

Mr. Lyon: Please seek advice from the Attorney General. Go to the court system. It is the cornerstone of our democracy.

The Chair: Thank you. That concludes the time we have for your presentation. Thank you for coming here this afternoon.

WHITEVALE AND DISTRICT RESIDENTS ASSOCIATION

The Chair: Our next deputation is from the Whitevale and District Residents Association. Is Sandy Rider in the room? Yes, you are.

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): On a point of order, Mr. Chair: I'd just like to advise people that we have with us today two persons who are celebrating their anniversary: my colleague Ted McMeekin and also our highly competent Jerry Richmond. They were born about 40 years ago.

The Chair: Well, congratulations to everybody on the anniversary of their 39th birthday.

Ms. Sandy Rider: Mine is as well today.

The Chair: Is it really?

Ms. Rider: Immaculate Conception Day. So congratulations.

The Chair: Well, then, welcome and happy birthday.

Ms. Rider: Thank you.

Mr. McMeekin: It's your birthday too?

Ms. Rider: Yes. Thirty-nine.

The Chair: Ms. Rider, you have 10 minutes for your deputation here today. Welcome to you. Begin by stating your name for the purposes of Hansard, and then please continue.

Ms. Rider: My name is Sandy Rider. I'm president of Whitevale and District Residents Association.

I've been working on the process that resulted in an agricultural preserve since 1991. A great deal of time, effort and discussion has taken place since then.

The NDP, at that time, started this process by working to return an area of the expropriated airport lands to the farmers and tenants for agricultural uses only while maintaining the lands in public trust.

The Conservatives, when they came to power, wanted to see the lands sold outright and, after much discussion, agreed to agricultural easements to protect these lands in perpetuity for agricultural purposes.

The Liberals, as part of their platform, stated their definite intent to maintain these lands as an agricultural preserve, and Bill 16 proved it.

The developers who bought a great deal of these lands pressured Pickering council to lift the easements so they could build houses. Pickering council, unilaterally and arbitrarily, did so without notification to the four other parties—I was one—who were signatories to the easement-enacting memorandum of understanding, negating the intent of all three parties.

It takes courage to overturn a wrong and make it right. The insight of the politicians who support Bill 16, which will return the easements to these lands, is to be applauded.

On behalf of the residents of Whitevale and those in the surrounding district whom I represent, we do definitely thank you.

Short and sweet.

The Chair: Thank you. That leaves a little time for questions. We should have time for perhaps two questions from each caucus, beginning with Mr. Miller.

Mr. Norm Miller (Parry Sound–Muskoka): Thank you very much for your presentation. I guess I'll come back to a point that came out in the presentation that the Ministry of Natural Resources made, and the presenter before you also hit on it: the value at which the land was

sold back to owners from the Ontario Realty Corp. In the presentation from the Ministry of Natural Resources, they said that the price of the lands was based on the value of land for agricultural purposes—

Ms. Rider: That is correct.

Mr. Miller:—and that as a condition of sale, the purchaser of the land was required to agree to an easement that would protect it for agricultural purposes in perpetuity. I guess for our last presenter—I mean, that seems fairly clear to me, and I would think there's a difference in terms of market value of agricultural land versus land that's going to be developed.

Ms. Rider: Yes.

Mr. Miller: That's kind of a key thing for me. Would you say that it is correct?

Ms. Rider: That is correct.

Mr. Marchese: Ms. Rider, you're happy with the bill. Is there anything that you would add by way of an amendment to make it stronger or better, or are you happy with the way it is?

Ms. Rider: I'm happy that the bill has gone before the Legislature, because if the easements are not put back on, the land can be reinvestigated within 10 years, and that can change all sorts of things. This land was to be an agricultural preserve; this bill will ensure that.

Mr. Marchese: One of the questions the New Democrats raised in the Legislature during the debates was that the minister, in the future, could decide the fate of easements one way or the other, and his or her word would be final; there would not be any debate. What we said is that if the minister should decide to lift the easements on his or her own, there should be a public debate in the Legislature before, or simply a debate in general. Do you think that's a good idea or are you happy either way?

Ms. Rider: I agree. I think that's a good idea.

Mr. Marchese: It's one of the improvements we were talking about or thinking about.

Ms. Rider: That would be a good one.

The Chair: Thank you. Mr. Orazietti.

Mr. Orazietti: Thank you, Chair. I have no questions.

The Chair: Thank you very much for coming in, Ms. Rider, and for taking the time to make your deputation before us. Have a good weekend.

The Pickering Ajax Citizens Together for the Environment, Mr. David Steele. Is he present?

Interjection: He's not here yet.

The Chair: He has not arrived yet. OK.

MILTON RURAL RESIDENTS ASSOCIATION

HALTON REGION FEDERATION OF AGRICULTURE

The Chair: The Milton Rural Residents Association and Halton Region Federation of Agriculture, you're on. Welcome this afternoon. You'll have 10 minutes to do your deputation before us. Please begin by stating your name clearly for the purposes of Hansard, and proceed.

Dr. Lieven Gevaert: My name is Lieven Gevaert. I'm a director of the Halton Region Federation of Agriculture. I'm also director of the Milton Rural Residents Association. You have the presentation and the appendix. What I will try to do, hopefully in about six minutes, is: (1) discuss the issue of farmland effectiveness; (2) geography; (3) property rights; (4) the Conservation Land Act; (5) some specific comments on specific words; and (6) recommendations, then hopefully, some time for questions. I will try to be very brief.

(1) Farmland effectiveness: The appendix shows a letter from Ron Bonnett, who is the president of the Ontario Federation of Agriculture. He states very clearly what I'm going to describe as the ineffectiveness of the preserve as farmland. He states two things: because it was expropriated, the location lost all its agricultural infrastructure. If you look carefully, the majority of the usage was for oil and grain crops which can be grown without any capital infrastructure. That was because of the disappearance of the infrastructure. The other comment that he made was that the preserve is about ideology, not pragmatism, and that the land is, at best, now marginal for agriculture.

(2) Geographic location: I believe this land is very close to the Seaton lands, and I'm trying to draw a comparison as to which is more important. As I understand it, the Seaton lands were owned by the taxpayers and are about to be flipped over somehow as compensation for landowners who had land in the Oak Ridges moraine. Interestingly enough, the environmental sensitivity of the Seton lands is very high. With cold water streams and good forests much more sensitive than these lands, it seems like a strange choice to make on which of the lands are supposed to be kept.

(3) Property rights: The process of properly executed and agreed-upon outcomes, whether they be by agreement within a court of law or done by cell by two non-forced citizens, is now going to be invalidated by this bill, as I understand it. This is unjust, just as the prior Greenbelt Act was unjust. However, the Greenbelt Act is a precedent upon which this seems to have been done. A small minority of owners, compared to the citizens of Ontario who were supposedly going to benefit, have their rights taken away. That is not just.

1600

(4) The Conservation Land Act: The inclusion of land for agricultural purpose is very strange and somewhat cynical because it supposedly means that agriculture will now be protected by conservation authorities. If you look at the next page, you will see an example where conservation authorities—I did not name it; if somebody wishes to know, I'll tell them—have in fact acted in a manner totally unjust to farmers. This will continue. As a farmer, I do not want to be under any kind of conservation authority easement. That is unacceptable and it will harm farming, now and in the future.

The comments on specific parts of the bill are in here. I'm not going to talk about them.

Recommendations: Number one, based on the above concerns, the main recommendation that our two groups

have is to withdraw this bill. Number two, if for some reason that cannot be done, then Bill 16 must be written in such a fashion that property rights are respected to the fullest for the people who will be affected. If this bill does carry on, then there must not be any control, perceived control or future control of the Conservation Land Act. If Bill 16 is to be written, then the issues referred to in section V of my presentation, which talk about limitations, set free, no appeals and all that sort of thing, need to be reviewed. There should at least be an independent appeal body, not the minister, through which you would have to go if you want any change.

I'm going to conclude my remarks, and I invite questions. Thank you very much for the opportunity to talk to your honourable members.

The Chair: Thank you for coming today. We should have time for about a minute from each caucus, beginning with Mr. Marchese.

Mr. Marchese: The NDP has been pushing for this for quite some time. The Tories in 1999 signed an agreement between the provincial government, the region of Durham and the city of Pickering stating that all lands in the Duffins-Rouge Agricultural Preserve would be preserved for agricultural purposes in perpetuity. So we were pushing for this. They finally introduced a bill in 1999. So all three political parties are now, so to speak, in sync. Which political ideology are you referring to when you say it's all about ideology and not something else?

Dr. Gevaert: First of all, I can't comment on that strictly because that was a comment that was taken from Mr. Bonnett's letter. I'm going to say that possibly he might have meant—I can't verify it—the ideology of common property as the common right of society, rather than property as still the right of the individual. I am interpreting what he said. I don't rightly know because I didn't say it.

Mr. Marchese: OK. A quick question. Did you say the land was marginal for agricultural? Was that you stating that?

Dr. Gevaert: Yes, I said that.

Mr. Marchese: Could you explain what you mean by that?

Dr. Gevaert: By the way, Mr. Bonnett said the same thing, again, in the appendix, but what I mean by that is after 20-plus years of non-surety—the greatest problem to farming is non-surety. After it was expropriated, for 20-odd years, there was non-surety. Therefore, the only farming that was done—and it doesn't necessarily have to be class 1, class 2 or class 3 land, but it also has to be the infrastructure. The only thing, really, without much capital investment, was grains and oilseeds, which is corn, wheat and soybeans. Those things can be grown with nary any capital cost. But you may have noticed that there were not pig or cattle barns, because that requires a large amount of capital input, and when you have land which isn't clearly defined and clear, that's not going to happen. That's my reason.

The Chair: Thank you. Mr. Oraziotti.

Mr. Oraziotti: We have no questions.

The Chair: Mr. Miller.

Mr. Miller: I'd just like you to expand on the comment you made to do with how you respect property rights and maintain the land for agricultural purposes.

Dr. Gevaert: My response to that is that you cannot by legislation deprive people of their right to the enjoyment of property by just saying, "You're restricted, and that's that." That, you cannot do, in my humble opinion. It's very clear.

Mr. Miller: This land, if I understand what the Ministry of Natural Resources said, was owned by the Ontario government and sold back at agricultural values only under the condition that it be used for agricultural purposes.

Dr. Gevaert: That is correct.

Mr. Miller: So what's changing here?

Dr. Gevaert: What's changing here is that somewhere along the piece, this bill has been introduced because some kinds of lawful things happened between whichever parties that indicated that the agricultural easements could be taken away. It wasn't illegal; otherwise people would have ended up in court and would have been charged.

Mr. Miller: You're referring to what the city of Pickering has done.

Dr. Gevaert: Yes, sir.

Mr. Miller: I guess the mayor, who's now a member of the Liberal Party, has been fairly public. It will be interesting to see how he votes on this bill, actually. But when the land was sold by the Ontario Realty Corp. it was the understanding that it was sold at agricultural prices strictly for agricultural use in perpetuity, which I would think means forever, personally.

Dr. Gevaert: I understand what you're saying.

Mr. Miller: What about your independent appeal bodies? Can you expand on that?

The Chair: And you'll have to expand very quickly, please.

Dr. Gevaert: Yes, sir. I'll do it very quickly. It seems to me that someone who is a sponsor of the legislation cannot also be, at the same time, the arbiter or the appeal body. It's like saying that the police charge me for speeding and a police officer is going to tell me whether the appeal that I make is right or wrong.

The Chair: Thank you, Mr. Gevaert, for coming in today, and for your deputation.

PICKERING AJAX
CITIZENS TOGETHER
FOR THE ENVIRONMENT

The Chair: Is Pickering Ajax Citizens Together for the Environment here? OK. Welcome to you.

Mr. David Steele: I've brought a map so we can understand what we're really looking at here.

The Chair: OK. Just for your information, most of us do have maps in front of us. While you can make refer-

ence to it, we probably have some that are in reduced form.

Welcome today. You have 10 minutes for your deputation. Please begin by introducing yourself for the purposes of Hansard and proceed.

Mr. Steele: Thank you, Mr. Chairman, for allowing me to be here. I was told that I was on the agenda at 4:20 p.m., so I guess I am on time. I'm here in reference to Bill 16, the environmental protection in north Pickering and the agricultural preserve.

In summary, we affirm that the land in Seaton is environmentally sensitive and contains diverse ecological habitats. The Seaton lands lie on the south slope of the Oak Ridges moraine and are underlain by large aquifers, which are equivalent to one million Olympic-sized swimming pools, that feed the Duffins and three cold-water creeks. The land is of equivalent, if not superior, environmental importance to that which is being protected in the Oak Ridges moraine.

If the Seaton lands had been in private ownership, not the province's, it would have been included within the provincial greenbelt. These lands and their underlying aquifers should be protected under the province's source-water protection act and not simply written off as a consequence of contamination by urban pollution—for example, road salt. That these waters will be impacted by urban development is known to the province as a consequence of several studies either commissioned by them or completed by the consultants for the city of Pickering and PACT. With the presentation, I have a document done by Professor Ken Howard in reference to the provincial plan for Seaton.

1610

The province has acted to develop these lands without having completed due diligence studies on the underlying water resources and ignoring its own legislation designed to protect groundwater for future generations. Given the environmental and resource significance of the Seaton lands, an appropriate EA process must decide their future. The Seaton lands are to be sold by the provincial government and are intended for future urban development, not preservation of environmentally sensitive lands. The sale of public lands, the private development of that land and the resulting environmental impacts are all very much related.

The province is ignoring independent environmental research that identified negative environmental impacts arising from the urbanization of Seaton, including (1) the Pickering growth management study, stages one and two; (2) the IWA 1997 Dillon's water balance report; (3) professor Ken Howard's independent review of the provincial plan for Seaton that was commissioned by PACT; (4) the terms of reference of the Pickering growth management steering committee, a number of community associations, which was to protect the environment and jobs first; and (5) the agricultural easements placed on the agricultural land are controlled by the city of Pickering.

Bill 16 puts greater development pressure on Seaton, as the Pickering growth management study indicates a

maximum of 30,000 people could possibly reside in Seaton without damaging the environment and approximately the same number on the agricultural land. This would allow for the protection of all sensitive land in Seaton, and agricultural lands would be preserved.

The province appears to be in conflict as both the landowner wanting to develop the lands and as the public trustee of the land's environmental assets.

At the present time, independent EAs are being conducted all around Seaton and the agricultural preserve; examples are Highway 407, the York-Durham sewage pipeline and the federally owned airport lands. All the land around it is going through an independent EA. What is the point of conducting these assessments if the provincial government ignores the Seaton lands, which are without question the largest extent of environmentally sensitive lands in Pickering?

Four recommendations to the province, if I may: The province must start acting like the public's trustee for the environment in Seaton; the province must start talking openly, honestly and directly with Pickering residents about the proper protection of the environment in Seaton; the province, as the proponent, must bump up the class EA on the land swap deal to a proper individual EA, addressing the future of Seaton; and the province must defer Bill 16 until the future of north Pickering is resolved.

Anything less confirms that the province is playing politics with our scarce environmental assets and ignoring its own legislation. The province should set an example of the smart growth principles it claims to follow.

Signed, David Steele.

Here I have 2,500 signatures agreeing with what I stated in here, and they were collected in five weeks. I could get 10,000, but I don't think it would make much difference.

Thank you, Mr. Chairman.

The Chair: Thank you for coming in today. We should have time for just one question. Mr. Oraziotti, that is yours, if you wish.

Mr. Oraziotti: No, thank you, Chair. We have no questions.

The Chair: Mr. Miller?

Mr. Miller: Certainly. In terms of the bill this committee is looking at, Bill 16, which I gather doesn't deal with the lands that you're concerned about, the Seaton lands, how do you feel about Bill 16? Are you in favour of it? Do you support it or not support it?

Mr. Steele: I am with the majority of the people of Pickering, not the minority of the people in Pickering—went through the Pickering Growth Management Study, where we conducted a study of the old area for growth in Pickering, and the environment was to be protected first. My real concerns are—and it will happen—that if we don't develop Seaton in a sustainable manner, we will lose 35 species of fish, we will lose 111 wetlands etc.—40% woodlots, and it goes on.

With the Pickering Growth Management Study, we took all that into consideration. The University of

Toronto professors of hydrogeology and natural resources agreed that a maximum on Seaton could be maybe 30,000. We know that the agreement the province has with the developers for Seaton is somewhere around 60,000.

The Chair: Thank you very much for coming in today—

Mr. Steele: To answer your question, sir, if in a balance, east and west, we know you're protecting one half and destroying the rest. Thank you.

The Chair: Thank you for coming in today, Mr. Steele, and for taking the time to put together your presentation. We wish you a good weekend.

GREEN DOOR ALLIANCE

The Chair: The Green Door Alliance, Mr. Brian Buckles: Is he present? Welcome this afternoon. Please begin by stating your name clearly for the purposes of Hansard and proceed. You have 10 minutes to make your deputation. If you leave any time remaining, it will be divided among the parties for questions.

Mr. Brian Buckles: Yes, my name is Brian Buckles, and I'm speaking on behalf of the Green Door Alliance. We applaud this bill and make no recommendations for change, although I do like the suggestion made here about making it more—I wasn't aware that it could be revisited that easily. We'd like to briefly outline our past involvement with the question before you and then explain why we feel it is so essential that this act be passed.

Many Green Door members, including myself, have a history of involvement in the area as members of People or Planes before the GDA was incorporated in the early 1990s. I was looking the other day at an old People or Planes booklet from 1979 entitled *The Last Green Door*, which, among other things, called for preservation of these lands.

The GDA's first major publication was a 42-page document outlining a conceptual plan for the provincial and federal lands, which proposed selling the agricultural lands, including the preserve lands, with easements ensuring future protection.

When the province initially decided to sell these lands, we were dismayed and argued strenuously against Ontario Realty Corp.'s intention to sell the land at agricultural prices but do so without placing any restrictions on title to prevent the land from being bought at fire sale prices and flipped for development. Our organization proposed to the region that the region require that easements be placed on these lands as a condition of their approval of the ORC's lotting plan.

The region, and subsequently Pickering, bought into this approach. ORC initially opposed that condition and appealed to the OMB. The Green Door Alliance were parties in this OMB process that led to the 1999 memorandum of understanding between the region, the city of Pickering and the ORC, requiring easements be placed on this land, calling for the land to remain in agriculture or

natural uses in perpetuity. Although we were not signatories to that agreement, we signed off on the minutes of settlement on the understanding that the MOU permanently protected these preserve lands.

We were appalled when early this year Pickering hurriedly and unilaterally released the easements. Along with another signatory to the 1999 minutes of settlement, we applied to the OMB to review whether Pickering's release of the easements was in contempt of the settlement agreed to. The OMB declined to intervene, stating it was a matter for the courts, not the OMB.

Now I'd like to talk about the importance of passing Bill 16. We have long supported private stewardship and the use of easements. Many of our members, myself included, and members of our affiliated organization, the Durham Conservation Association, have donated easements on our own lands.

Pickering's action, as Minister Ramsay and others have indicated, has put into question the legal integrity and long-term validity of conservation easements. So the first important reason for taking action is to redress this situation.

1620

Secondly, some may argue that since the preserve is protected by the greenbelt plan, no further protection is required. However, given the immense windfall that would occur if this land were developed, coupled with Pickering's attitude, immense pressure would continue to be put on this and subsequent governments to change the greenbelt boundaries. To underline the amount of money involved here, the March 11 National Post had an article with the headliner, "Greenbelt Plan Will Cost Me \$240M Developer Says." Sylvio De Gasperis, the president of TAAC Group, the Post article reports, told them that the land "is now worth as little as \$5,000 an acre because it can only be used for agricultural purposes."

We obviously had strong disagreement with Pickering about urbanizing the preserve and about their unilateral release of the easements. However, even if one were to accept Pickering's position that the preserve should be developed and that they had the unilateral right to remove the easements at any time, their action was, in our judgment, appalling. Without greenbelt protection, which Pickering wanted removed, the only thing standing between the land worth \$5,000 an acre as agricultural land and hundreds of thousands per acre as developable land would have been the easements themselves. By releasing these easements, Pickering was effectively transferring the vast lion's share—and perhaps virtually all—of what had been a public asset potentially worth hundreds of millions of dollars from public to private hands.

Passing Bill 16 and reinstating the easements will increase public trust and provide reassurance to a cynical public that such a gigantic public rip-off will not occur. Without such reassurance, we are likely to get back into the situation that existed in the last round of elections: great amounts of private money being spent supporting preserve-development candidates who want greenbelt

boundaries changed and full-page ads week after week attacking those opposed.

Thirdly, the province is currently working with other stakeholders to develop a plan for both the Seaton and the ag preserve lands. As long as property owners and their backers feel there is any possibility of developing their land, most will feel it is not in their best interests to take and support actions which improve economic viability in the countryside. They will continue to do what has been done in the recent past: highlight all the problems of making near-urban agriculture viable, make no investment to improve the farms, and then argue the land isn't really class 1 anyway, and on and on.

The Duffins-Rouge Agricultural Preserve lands provide a terrific opportunity for the province, farmers and other stakeholders to examine different approaches to support farm viability, approaches that could not only have benefits on the preserve but that might, over time, benefit the broader farm community in Ontario. None of this will ever get off the ground without the certainty that passage of the Duffins-Rouge Agricultural Preserve Act will provide.

Fourthly and finally, many groups and individuals in Durham—and, for that matter, across the GTA—support a vision of a non-urbanized corridor from the lake to the moraine. The act ensures the preserve will form a permanent part of this corridor. When plans for Seaton are firmed up, a very major portion of those lands will also be added to this corridor.

Directly to the north, the federal government has committed to permanently protect 7,200 acres of the more than 18,000-acre federal airport holding as green space. These 7,200 acres are mostly on the moraine but also include a southern link. Even if an airport were built on these lands at some future point—and we still feel any such proposal is still wildly premature—all evidence points to the fact that far more land and a far broader link could be protected in the future, creating a larger and even more viable countryside that could better support necessary farm infrastructure and add, again, to the viability of the preserve and the creation of a more robust natural heritage corridor all the way up to the moraine.

We urge the province to take an active and critical interest in what is happening on the federal lands. It was the province who, by withdrawing infrastructure support, pulled the plug on the federal airport proposal in the 1970s, saving taxpayers billions of dollars.

In closing, we're delighted all parties support the current action. It was the NDP that created the preserve in the first place, Conservatives who signed an MOU calling for the lands to be retained in agriculture "in perpetuity," and Conservatives who approved the Crombie recommendations reaffirming this protection. It's been the Liberals who have stood up to Pickering and, with all-party support, are reinstating the easements and ensuring future protection.

Through Bill 16, the public will be reassured that the integrity of easements has been restored, that the public interest is not being squandered, that a vital step will be

taken in focusing efforts away from urbanization and toward the development of a viable farm and countryside economy, and that a critical first step in ensuring a permanent link between the lake and the moraine will have been taken.

Thanks again for the opportunity.

The Chair: Thank you very much for coming in. Your timing is impeccable. That concludes the time you have before us.

ROUGE PARK ALLIANCE

The Chair: The Rouge Park Alliance, Mr. Gordon Weeden. Mr. Weeden, welcome this afternoon. You have 10 minutes to present to us.

Mr. Gordon Weeden: My name is Gord Weeden. I am chair of the Rouge Park Alliance. Mr. Chair and committee, thank you for the opportunity to be here. There is material being handed out that I will be referring to in my presentation.

On behalf of Rouge Park and the Rouge Park Alliance, I would like to thank the standing committee on the Legislative Assembly for taking the time to hear our comments on Bill 16 itself, and our thoughts on some of the benefits that might be achieved for Rouge Park, the greenbelt and the taxpayers of the GTA by ensuring that strong representation of our agricultural heritage and revitalized natural links remain in the Duffins-Rouge area. I also want to thank the government and the Honourable David Ramsay for proposing and supporting this very important bill.

Rouge Park endorses the general thrust of Bill 16. Specifically, we emphasize that clear limits must be set on development in that area in order to protect nearby environmental resources and linkages, and to preserve the opportunity to nurture economically viable and sustainable agriculture. This is important not only in Pickering near Rouge Park but also throughout our greenbelt. The security of agricultural and environmental easements must be assured.

Rouge Park has been described as the largest natural environment park in an urban setting in North America. It presently includes about 10,000 acres in York and Durham regions and the city of Toronto. The intent is one day to have a continuous natural corridor connecting the Oak Ridges moraine to Lake Ontario in the Rouge River watershed, along with east-west connections with the Duffins Creek watershed. In addition to its natural heritage objectives, Rouge Park also protects cultural and agricultural heritage lands.

Rouge Park is in its infancy, but already performs important functions in the greenbelt area. The park was first envisioned in the 1980s, its management plan was prepared in 1994, and the park officially became a reality in 1995.

As mentioned before, all governments in power from the 1980s to the present have been strong supporters of Rouge Park. We're grateful for the consistent enthusiasm of all parties for the creation of this great public asset.

However, Rouge Park is not a provincial park, a national park, a conservation area nor a municipal park. It is a unique partnership park created by contributions of land, money and services by all levels of government, regional agencies and NGO support.

However, its planning documents lack a strong base in legislation or the provincial policy statement and are vulnerable to the Ontario Municipal Board.

Rouge Park fulfills important roles for the greenbelt in the heavily populated Toronto area. Its plans include developing major tracts of natural habitat, including interior forests where plants and animals sensitive to disturbance can flourish. Rouge Park will therefore act as a reservoir of biodiversity in the area and will support nearby greenbelt habitat areas that are smaller and less viable over the long term.

As well, Rouge Park is the best hope for an Oak Ridges moraine-Lake Ontario connection in the central greenbelt area, but it is as yet incomplete. A critical mass of public lands ensures that Rouge Park can successfully support the greater greenbelt concept.

In 2004, the Honourable David Ramsay announced the province was transferring another 1,400 hectares—3,500 acres—of land in York region, Pickering and Toronto for Rouge Park purposes. This is a welcome addition to the park and a great step forward.

Why is Rouge Park a good steward for these public lands? As noted on pages 8 and 9 of the presentation booklet that has been handed out, a recent study of the natural environment in Toronto found that the biggest forest patches, the largest meadow habitats, the majority of rare plants and animals are all found in Rouge Park. We need to accomplish a similar role throughout the watershed, particularly in newly urbanizing areas.

1630

Rouge Park has a number of comments and observations regarding Bill 16 and the Duffins-Rouge corridor. First, we feel it is vitally important to ensure the security of easements on properties, both agricultural and environmental. Planning for the future requires a variety of tools to maintain our agricultural heritage, along with a sustainable network of compatible environmental resources. If easements are treated as temporary measures to dispose of when expedient, it will be impossible to work with private landowners to achieve a variety of goals. For this reason, Rouge Park supports the intent of Bill 16.

However, as admirable as Bill 16 is, it applies only to the Duffins-Rouge Agricultural Preserve. Rouge Park feels it is important to pass this type of legislation on a broader basis to permanently protect both heritage and conservation easements, and preserve the intentions of donors of lands for these purposes to land trusts, conservation authorities and other worthy organizations.

The situation that developed in Pickering shows the shortcomings of what might be termed the American model, which relies on property instruments to create heritage and conservation protection. Counting on easements is essentially an inferior way of protecting

these important cultural, agricultural and environmental assets. Regulation by the province to protect values of provincial public interest, in conjunction with wise public ownership, is a much better way to achieve the goals such easements are intended to address. Essentially, there are no effective means to enforce easements and few, if any, resources are devoted to such investigation and enforcement.

As you may know, Rouge Park's management plans include protected agricultural heritage areas on public lands. We recognize that for farming to be viable and sustainable in the GTA, a number of factors must be addressed. Rouge Park is moving to ensure our farms are large enough to work profitably, have long-term leases that encourage investment by the farmer, and have environmental farm plans to ensure that agricultural and ecological portions of the park are good neighbours.

We recognize there are larger issues affecting the profitability of near-urban farms, and Rouge Park will work closely with agricultural groups, the Friends of the Greenbelt Foundation, the GTA agricultural action plan and others to investigate and implement alternatives to the conventional cash crop regime. The transition from cash crops to more sustainable alternatives will require energy, imagination, determination and financial support.

The opportunity offered by the passage of Bill 16 and the protection of these Pickering agricultural lands is an exciting opportunity for Ontario. The growing population of the Golden Horseshoe will provide an insatiable market for enjoyment of the natural and cultural products and values provided by our presently diminishing farmlands and natural ecosystems. The provision of a strong level of security of agricultural and environmental easements is vital at this time. We urge the province to make similar protection for easements apply across Ontario.

Rouge Park has been providing on-the-ground protection and restoration of these land uses for a decade. We welcome the opportunity to work with the Legislative Assembly and the Minister of Natural Resources to ensure long-term easements are sacred in this province.

The Chair: Thank you very much for coming in today. We should have time for perhaps one question.

Mr. Marchese: Mr. Weeden, we're doing clause-by-clause on Monday. That means that if people want to introduce any amendments to either strengthen or weaken it, they could. Do you have any suggestions on what you would like to see by way of improvements that pertain at least to this bill?

Mr. Weeden: I think in our presentation we suggested that the province should be expanding this to include protection or strengthening easements throughout the province, and that would be something—

Mr. Marchese: I understand. That will be way out of the scope of this bill.

Mr. Weeden: Other than that, I can't comment.

The Chair: Thank you for having come in today, Mr. Weeden, and for your deputation here.

**ROUGE DUFFINS
GREENSPACE COALITION**

The Chair: Rouge Duffins Greenspace Coalition, please. Welcome this afternoon. You have 10 minutes to make your deputation before us. Please begin by stating your name clearly for Hansard. If there is any time remaining after you have made your deputation, we'll divide it among the parties for questions. Proceed at your pleasure.

Mr. Jim Robb: Thank you, Mr. Chairman. My name is Jim Robb. I'm a volunteer with the Rouge Duffins Greenspace Coalition. I also work with an organization called Friends of the Rouge Watershed. My colleague is Bonnie Littley. We'll be sharing our time.

The handout I've given you today summarizes some of the history of the Duffins-Rouge Agricultural Preserve. Shortly after the Davis government expropriated the land in Pickering and Markham in anticipation of a federal airport, this land was designated for continued agricultural uses and agricultural preserve. Every government since then has reiterated and built upon that designation. The Bob Rae government designated it formally as an agricultural preserve. Dalton McGuinty's government has included it in the greenbelt and protected it for agricultural uses. So there's tripartite support for the permanent protection of this land. I've handed out something that goes through the summary of that history.

You have the Liberal platform and Premier McGuinty's promise that all the lands in the Duffins-Rouge Agricultural Preserve will be kept forever as farmland.

You have Minister Young's zoning order of April 21, 2003, in which he stated that the government sold the land to farmers at agricultural prices, and they expected it to stay agricultural. The Honourable Janet Ecker worked hard to have that continue.

You have the Honourable David Crombie, who reviewed this issue with a panel of notable experts and people in public service and academia, and they also recommended that it stay in perpetuity.

You have the actual easements that were put on the land by a multi-party agreement between the province, the region, the municipality and the Green Door Alliance, which say that the land will stay in perpetuity.

You have the Durham region planning staff report, which recommended that this land in the official plan should stay in farmland and that this was consistent with the Honourable David Crombie's recommendation.

The town of Markham has taken steps on their side of the ag preserve, because the ag preserve actually extends from the Little Rouge River over to the West Duffins, so it sort of straddles the Markham-Pickering boundary.

You have the Rouge Park Alliance, which appeared before you.

You have a study done by the Ministry of Natural Resources, called the Rouge-Duffins Draft Natural Heritage System, in which they said, "The significance of the Duffins-Rouge Agricultural Preserve, in providing linkages between the Rouge River and Duffins Creek

watersheds for the majority of fauna in the study area, should not be minimized.... [E]very effort should be made to leave the agricultural preserve intact."

You have the 1993 declaration, you have the 1975 Davis government declaration and you have a number of individuals and organizations such as Ontario Nature, the World Wildlife Fund and many others that have worked on it.

On the back is the map, the context of this planning area. This land is ecologically and farming sensitive, because it is tableland between the Little Rouge River and the West Duffins and Seaton Trail. So it's important land to protect.

What would happen if you don't protect it? Basically, there are a few skeletons in the closet on this particular file, and we don't need to go into them in detail here. But suffice it to say the land was sold for \$4,000 an acre, and if it becomes developable land, private interests will have taken taxpayer land at \$4,000 an acre and converted it into private land worth \$150,000 an acre. If you do the math, it works out to a \$300-million to \$500-million loss to the taxpayer.

We commend what you're doing today in Bill 16. We think it's the appropriate thing to do. I'll let my colleague address other issues.

Ms. Bonnie Littley: I want to make a few more comments in regard to some of the other statements; Jim came late and missed a few things.

In addition to some of the things Brian Buckles from the Green Door Alliance was talking about—the link from the moraine to the lake and the importance of that—the idea of the preserve also is to uphold the future resource for local food. If you look at the map, it's next to the largest urban market in Canada, so I think the potential for farming/food/urban agriculture is huge. An organic veggie operation can run on as little as two to 15 acres. You don't need a 200-acre farm to do those kinds of operations or agri-tourism or other very viable businesses. The location is absolutely ideal. This process will provide those assurances, and that permanency will give the security needed for investors to come in and be able to set up shop and not feel they are going to have subdivisions beside them. They'll be able to make those long-term commitments.

1640

The problem with the growth management study of Pickering, as much as we are concerned about the Seaton lands as well—the growth management study plan and the province's plan for Seaton are very similar—is that the city's plan was also going to develop 1,000 acres of the agricultural preserve. We were very much against that.

We support Bill 16 absolutely and positively; in fact, I'm ecstatic. Actually, I didn't want to copy all these letters; these are over the last five years—petitions, letters and statements to council, to Pickering, to the province, to the greenbelt and to this process from individual citizens, community groups and environmental groups. I think I sent across the list of the current com-

munity and environmental groups. These are individual citizens, mostly.

Mr. Marchese: How many people are we talking about?

Ms. Litley: I have no idea, really.

Mr. Marchese: Guess.

Ms. Litley: Thousands over the last five years, and these are only letters that have come through our Web site or our e-mail directly or at an event we've had.

The pumpkins at the Queen's Park event were grown at Wittamore's Farm, and it is on the Markham side of the agricultural preserve. We were also part of that event with Environmental Defence.

I'd like to add too that no one's property rights have been taken away. This issue goes around and around in circles, but at the end of the day, it comes back to the fact that that land was sold to people with an agricultural easement in perpetuity, knowingly, and they had a choice whether to buy it or not.

We absolutely support this bill. Ontario Nature has stepped forward, because what has happened here is threatening conservation easements everywhere. We're in line with Ontario Nature; Ontario Farmland Trust has come forward, Ontario Land Trust Alliance. Elbert van Donkersgoed of the Christian Farmers Federation as well has—

The Chair: Just to advise you, you have about two minutes remaining.

Ms. Litley: OK. I'll let you go ahead and ask any questions, if you'd like.

Mr. Robb: If I could just make one more point: I haven't had the chance to talk to a lawyer about the particular bill and how it's worded clause-by-clause. There is one small thing that strikes me that may improve it, and that is to include the ability for it to have agricultural and conservation uses. I think that's probably included within the definition of what agricultural land is, such as tree farms or growing sugar maple bushes and those kinds of things. But the idea of agricultural and conservation lands—I believe the Ministry of Natural Resources would like to utilize some of those lands to build some natural heritage linkages between the west Duffins and the Rouge Valley, and to create less-segmented wildlife corridors to improve the biodiversity of the area. There is that concern, but in general I think the bill is achieving the purpose we want, which is protection in perpetuity for that farmland and that landscape.

Ms. Litley: And also support the public hearings if it came across, instead of just the minister.

The Chair: That does conclude your time before us today. Thank you for coming in and for your deputation.

ENVIRONMENTAL DEFENCE

The Chair: Environmental Defence: Is Mr. Rick Smith in the room, please? He is. Welcome, Mr. Smith. You have 10 minutes to make your deputation before us. Kindly begin by identifying yourself clearly for Hansard,

and proceed. If you leave any time, it will be divided among the parties for questions.

Mr. Rick Smith: Thank you very much. My name is Rick Smith. I'm executive director of Environmental Defence. My presentation is going to be exactly as brief as I hope your consideration of this bill is. Frankly, it's our hope that this bill is a bit of a bonding experience among all three parties here, the reason being that—

Mr. Marchese: We do that all the time.

Mr. Smith: Is that right? OK.

This bill builds on the legacy of 30 years of consistent policy enacted by Ontario governments of all political stripes. As such, it's our fondest wish to see this bill adopted unanimously by the Legislature, with some of the amendments that we outline here included.

In my brief, I've outlined some of the chronology that has led us to this point. I'm sure you've heard a lot of this today, so I won't belabour it now. Suffice it to say that, beginning in 1972 when these lands were announced as a proposed location for the international airport and associated city in north Pickering, all the way up to the late 1990s when these easements were applied after the sale of the lands, government policy from Progressive Conservative, Liberal and New Democratic Party governments has been consistent all along the line.

Our interest in this really began over the last year when Environmental Defence and Ontario Nature joined with the Green Door Alliance and Sandy Rider to appeal the city of Pickering's unilateral removal of the easements to the OMB. As you've likely already heard today, in a letter dated June 29, 2005, the OMB rejected our appeal and advised our organizations to seek redress through the courts. So suffice it to say that this bill in front of you today is necessary and is really the best mechanism at hand to deal with this long-standing problem.

The bill is needed for two reasons. The first reason is that the Legislature needs to protect the public interest in the specific case of the agricultural preserve. As has been mentioned, because real estate speculators bought the agricultural preserve lands, which were supposedly protected by permanent agricultural easements, for about \$4,000 an acre, they stand to reap a windfall profit and resale prices in excess of \$100,000 an acre, if they're successful in securing the release of these easements and the urbanization of the preserve that the town of Pickering, if left to its own devices, will clearly grant them.

One of the speculators in question—in a very forthright and candid manner, I should say—in March of this year admitted to the National Post that he alone stands to make \$240 million if the easements are lifted. So there's a real issue here, specific to the preserve, related to the protection of the public interest.

The second reason this legislation is needed is that, frankly, it sets a precedent for easements right across this province. I know many of you here are involved in other conservation issues, and easements are held by a wide variety of organizations across this province: conser-

vation authorities, naturalist groups, land trusts, governments of different levels, many other organizations. If it turns out that easements are ephemeral—if they're not worth the paper they're printed on—then this easement tool used for conservation, used by anglers and hunters groups, used by a wide range of organizations across the province, will be critically undermined.

So we would like to suggest, as I mentioned at the outset, that this bill be adopted unanimously by all parties, with two amendments made prior to its adoption:

(1) We would suggest that a clause be included in the act to make explicit that, in the event the government decides to re-expropriate the preserve lands in the future, it can do so at the same price the government sold the lands for originally, perhaps with an escalator to account for inflation.

(2) We would suggest that the area stipulated by the act to be protected by the easements should also include the original Markham side of the agricultural preserve. If you dig into the history of this preserve, there was a point when there were actually lands incorporated with it on the Markham side. We would suggest that that area be incorporated into the area dealt with by this act.

Perhaps I'll leave it there, and I'd be happy to take any of your questions.

1650

The Chair: Thank you very much. We should have time for one question, and two if they're brief, from each caucus. This would begin with Mr. Orazietti.

Mr. Orazietti: Thank you, Chair. Bear with me here. First of all, Mr. Smith, thank you for being here today to make your presentation. What would you say to people who come before the committee with respect to this bill who would imply that they should be able to develop these lands? You made some comments about the history of these lands. Do you care to elaborate on that for us?

Mr. Smith: Sure. I would say that these folks bought the land with easements attached that were clearly stipulated as being there in perpetuity, so there shouldn't be any surprises. They went into this with their eyes open. These were crown lands sold with specific conditions attached. Frankly, I don't give that argument much credibility.

Mr. Orazietti: Thank you, Mr. Smith.

Mr. Miller: Thank you for your presentation. I know you've asked that this be unanimous. While you were speaking, or just prior to your speaking, I was watching on the monitor the current member for Pickering, who was the former mayor, speaking in the Legislature on the opposition day, which is to do with the economy. I know he has been fairly vocal in support of development. I would assume that he's opposed to this bill, and he's currently a member of the government. In fact, I'm surprised he's not here taking part in the committee today to make his views known.

My question is, knowing the position of the current member, are you concerned with Mr. Arthurs's position?

Mr. Smith: I've not spoken with him about this, so I'm not going to prejudge his position. I hold out hope. I'm an optimistic fellow.

Mr. Miller: Your first recommendation: If the land were to be re-expropriated, basically the value would just go up with inflation. Is that what you're saying?

Mr. Smith: Yes.

Mr. Marchese: Mr. Smith, I just wanted to thank you and Bonnie and Jim, and so many others—I don't want to go through the whole list—who presented, because bills like this don't happen naturally. They usually happen because there's a great deal of pressure applied to governments. We asked them quite a number of questions over the last two years to urge them to do this. I just wanted to thank people for applying the pressure, because governments only respond to public pressure and nothing else. So I think that has been a success.

The city of Pickering and its politicians obviously understood the language and understood the agreement, because "in perpetuity" means what it means. What do you think caused the local politicians not to understand that, or misunderstand it, or reinterpret or misinterpret it? I'm sure you follow the politics. What do you think happened?

Mr. Smith: Again, I wasn't a fly on the wall, so—

Mr. Marchese: And that's OK.

Mr. Smith: —I don't want to surmise, but very clearly there are enormous pressures to develop these lands. They're very close to Toronto. Those pressures were there when the Progressive Conservative government sold these lands. Those pressures were there when the NDP government dealt with this issue. Those pressures are still there today. All parties represented here are united by feeling that pressure.

Mr. Marchese: Thank you. Fine.

The Chair: Thank you very much, Mr. Smith, for your deputation and for your time in coming here today.

CITY OF PICKERING

The Chair: The city of Pickering: Mr. John Reble. Welcome this afternoon.

Mr. John Reble: I'm sure many here think I'm a rebel, but it's actually Reble.

The Chair: I stand corrected.

Mr. Reble: That's quite all right. Even my wife calls me that sometimes.

The Chair: You have 10 minutes before us today. Please begin by stating your name correctly for the purposes of Hansard. If you leave any time remaining, we'll divide it among the parties for questions. The floor is yours; please proceed.

Mr. Reble: Thank you, Mr. Chair. My name is John Reble. Today, I represent the city of Pickering. The city is opposed to the passage of Bill 16. I will be brief.

A previous speaker said that this might be one of the most controlled pieces of land in the country, and I would not disagree. It is the city of Pickering's submission that Bill 16 is unnecessary and redundant, unless of course the province has no confidence in its own actions. This land is subject to two ministerial zoning orders, one which came in under the Planning Act and the other

under the Ontario Planning and Development Act. These two ministerial zoning orders were put in by the previous government on an Easter Monday about two and a half years ago. It is also the subject of the greenbelt legislation. Certainly, all of these legislative devices can determine how this land is going to be developed. Secondly, under this legislation the city of Pickering would still hold the easements. Nothing has changed, it seems, except to ensure that the city understands who has the power. The Minister of Natural Resources must consent to the lifting of the easements.

What this bill has done is to drive a stake in the heart of municipal autonomy and the ability of a municipality to plan its own jurisdiction, which I thought was enshrined in the Planning Act. This has been stripped away by the provincial government not only on the agricultural assembly lands, but also on the Seaton lands. If ever the province wants to ensure that municipalities are aware that they're the children of the province, it is saying and doing so with Bill 16. I note that the City of Toronto Act gives far more power to a local municipality if that is a municipality with clout. Clearly, Pickering does not have it.

I will say that the city does not oppose those amendments to the Conservation Land Act that are proposed in this legislation. These amendments to the Conservation Land Act, of course, are not necessary to be in this bill; they could have been stand-alone. But these amendments will clarify the legislation and overcome difficulties which the city of Pickering experienced in defending litigation brought by parties seeking a court order to overturn the easements.

Those are my submissions.

The Chair: Thank you very much. We should have time for two questions or so from each party, beginning with Mr. Miller.

Mr. Miller: You state that this bill is unnecessary and redundant, and yet from what I understand from the presentation the Ministry of Natural Resources made at the beginning of this afternoon—part of their presentation was that on March 1, 2005, the city of Pickering unilaterally released agricultural easements on basically 2,000 of 3,000—

Mr. Reble: That was their right to do, sir.

Mr. Miller: —on two thirds of the amount of land. I understand that the reason the easements were there was to keep it as agricultural land in perpetuity. So if the idea is to keep it as agricultural land in perpetuity and the city is changing that, I think that's the purpose of this bill—

Mr. Reble: Sir, the municipality has studied this. In fact, this area has probably been studied to death. The municipality had a growth management study which very clearly pointed out, as previous speakers have indicated, that these lands are not economic for agricultural purposes. The city of Pickering was legally given the option when the easements were drawn up and resolved, and a signatory to the memorandum of understanding was the ORC, the Ontario Realty Corp.

"In perpetuity" is a legal phrase, but easements have a dominant and a subservient party. Pickering, in this case,

had the clear legal authority, which, as I say, was enshrined in the memorandum of understanding and in the wording of the easements—and as I say, the ORC was a party to that—to be able to lift those. If that were not the case, then I'm sure that the province, given what the province has done, would have challenged the actions of the city of Pickering in court.

1700

Mr. Marchese: Mr. Reble, how could a government sign an agreement whose language says that we will preserve these lands for agricultural purposes in perpetuity, and you say that Pickering has the legal authority, and it was somehow enshrined in the agreement, that Pickering could indeed lift those easements? Why would the province sign an agreement that says "in perpetuity" and not understand the implications of what you're speaking of?

Mr. Reble: Sir, I believe the city of Pickering totally understood the implications and I'm sure the province understood the implications, which is perhaps why the province has brought in this bill, which I still say is redundant.

The matter has been studied. The Planning Act gives to the municipality the authority to look at land use and regulate land use within its jurisdiction. The province has made a scapegoat of the city of Pickering, both with respect to Seaton and also with respect to the agricultural assembly. Clearly, the province wants to see a particular end and they're not willing to trust the elected local representatives to carry it out.

Mr. Marchese: I want to point out that people like me believe, in many areas, that provinces ought to have an override in terms of protecting the larger provincial interest. We understood the 1999 agreement as to preserve those lands for agricultural purposes in perpetuity. That is why New Democrats support the bill and would like to strengthen it, in fact, rather than weakening it.

The province has an important role to play in these areas, so we can't simply say, "We, the municipality, ought to have the jurisdiction to do what we want, and whatever agreement we signed is irrelevant," or simply say, "The province clearly knew or misunderstood its own powers or misunderstood what it was writing in its memorandum." It's incredible to me to believe that you're saying, "The province knew that the city in fact had the power to lift that easement at any time." It's incredible.

Mr. Reble: That's exactly what I'm saying, sir. That's precisely what I'm saying.

The Chair: Thank you. I have to cut that question off. Mr. Oraziotti?

Mr. Oraziotti: I have just a couple of quick questions, if I can. Would it be fair to say that the city of Pickering was not prepared to live up to the original agreement in protecting the lands in perpetuity?

Mr. Reble: No, I would not say that. The city of Pickering instituted a growth management study through an independent planning consultant. Extensive public consultation was held and conclusions were reached that

this land was no longer appropriate for agricultural preservation and that development was appropriate. This was done through a very open and public planning process.

Mr. Oraziotti: History has shown the intent of the provincial government in terms of protecting this. There was an agreement reached with the city of Pickering. As to your comment about this bill being redundant, if you feel it's redundant, why is it necessary to oppose the bill?

Mr. Reble: I've been very brief, sir. I've said that I thought it was redundant. I'm here to state the position of the city of Pickering. I don't expect the Legislature to change its mind. It was very, very clear. The province could have taken the city of Pickering to court if it felt that Pickering didn't have the upper hand on those easements, to resolve the easement situation as it saw fit. That's the nature of our legal process.

The Chair: Thank you very much for your deputation here today.

The Duffin Capital Corp., please, Mr. Mark Flowers. Duffin Capital Corp., Mr. Mark Flowers? Going once. OK.

ONTARIO NATURE

The Chair: Ontario Nature—Federation of Ontario Naturalists, Linda Pim.

Welcome this afternoon. You have 10 minutes before us. If you don't use all of your time, we'll divide it among the parties for questions. Please begin by identifying yourselves clearly for the purposes of Hansard and then proceed.

Ms. Linda Pim: Good afternoon, Mr. Chair and members of the committee. Thank you for the opportunity to appear before you in support of Bill 16. My name is Linda Pim, and with me to my left is our stewardship coordinator, April Mathes. I'll make our presentation, and we can both answer questions you may have.

Ontario Nature, or the Federation of Ontario Naturalists, as we have been known in the past, has a 75-year history of activity in conserving nature in Ontario. We represent the interests of over 140 member organizations across the province and over 25,000 individual members. We have a long history of involvement in land use planning matters including, most recently, our work on and support of the new greenbelt. We also practise conservation through our system of nature reserves, comprising 21 owned properties and two conservation easements totalling over 5,000 acres, the largest privately owned nature reserve system in Ontario. As part of our nature reserves work, we are active in the Ontario Land Trust Alliance and in promoting conservation easements as one of many tools available for securing land for conservation purposes.

In April of this year, Ontario Nature commissioned a legal opinion by the pre-eminent environmental lawyer David Estrin, regarding the action of the city of Pickering in terminating the conservation easements within the Duffins-Rouge Agricultural Preserve in Pickering. This

legal opinion remains the only one publicly available on this issue. Mr. Estrin made it clear that the city of Pickering had no legal right to terminate the easements, for a number of reasons relating to several provincial statutes. We were pleased, through the legal opinion, to be able to contribute positively to the discussion emanating from Pickering's termination of the Duffins-Rouge easements. We have the legal opinion here if any committee members wish to read it.

Ontario Nature took an active role in the Duffins-Rouge easements matter because we were concerned for the protection of the preserve so that it may continue to be used only for agricultural and conservation purposes. However, we were also concerned that Pickering's action in terminating the easements could call into question the sanctity of easements as a tool for long-term land protection, a tool that hundreds of dedicated landowners across Ontario have put faith in to save their lands for perpetuity.

Three successive provincial governments of all three political parties have been committed to permanent protection of the Duffins-Rouge Agricultural Preserve. Ontario Nature commends the current government for being prepared to walk the talk. In other words, when Pickering did not act upon the warning from ministers of the crown that the government was prepared to legislate the easements back into existence, the government did indeed introduce this legislation.

Bill 16 is important because it clarifies that the easements to protect agricultural lands in the Duffins-Rouge Agricultural Preserve are meant to be in place "in perpetuity," not for only the six years that they existed on the city of Pickering's watch. We support the easements as an added layer of protection over and above the greenbelt designation because easements last in perpetuity, which is commonly accepted to mean 999 years. While we would all like the greenbelt plan to last that long, it, like all legislated land use protections, will always be vulnerable to change by a future government that may not be as committed to conservation as the current one is.

Ontario Nature does not see the need for amendments to that portion of Bill 16 that pertains specifically to the Duffins-Rouge Agricultural Preserve, and we encourage the Legislature to give the bill prompt passage, preferably before the holiday break. We do, however, have some recommendations for what would be considered minor amendments to that part of the bill that pertains to the Conservation Land Act and its easement provisions that apply across Ontario.

Ontario Nature has canvassed opinion broadly from the conservation community on this portion of Bill 16, collaborating with other organizations that have a direct interest and involvement in conservation easements. We speak today on behalf of ourselves and also on behalf of the Ontario Land Trust Alliance, a non-profit organization representing over 30 community-level and provincial land trusts, with a mandate to encourage the land trust movement throughout Ontario.

We would like to congratulate the government on its move to include in Bill 16 specific protection for agricultural lands under the Conservation Land Act. We would like to suggest a small set of fairly minor amendments that would serve to further strengthen and streamline the Conservation Land Act.

It is essential that the term “amend” or “amendment” be defined so as to determine what types of amendments will require notice or approval by the minister. Further, as proposed in new subsection 3(4.2), the act addresses only amendments by landowners, not by conservation bodies, such as Ontario Nature, as holders of easements. This should be corrected as there may be situations or easement documents that allow for amendments by the easement holder.

1710

Perhaps the most important change we propose is in proposed new subsections 3(4.2) and 3(4.3) of the act. These subsections require “consent” of the minister for all amendments and release of easements or covenants. We propose that this wording be changed to “notice” to the minister, as is provided for in proposed subsection 3(4.4). Notice to the crown would give the Ministry of Natural Resources sufficient opportunity to intervene in appropriate cases.

Our concern with the current wording that requires consent is the unnecessary complications and delays that could result in each and every amendment or release requiring review and consent by the minister. MNR has numerous programs to administer as is, and adding review of conservation easements would require substantial resources. There is little doubt this would take resources away from other essential programs such as the conservation land or managed forest tax incentive programs.

We would suggest there are many cases of amendments or releases that would not require ministerial approval. In many cases, amendments are brought forward to improve old easements that were written early in the land trust movement, and we have since learned how to write better documents. Requiring ministerial approval would bog down the progress toward stronger and more enforceable easement documents. Additionally, there are cases where conservation bodies may be in a position to take title to a property on which they currently hold a conservation easement. In this case, a release of the easement would be needed, but would clearly not require the minister to review the case.

By changing the wording from “consent” to “give notice,” the minister would have the opportunity to intervene where necessary as well as be informed on the process, but would not be required to undertake full review and sign off on all potential amendments and releases. Further to the “give notice” wording, it is important to include a deemed approval if there is no response from the minister within 30 days. Allowing a deemed approval after 30 days will minimize unnecessary delays that can often jeopardize important land conservation initiatives.

Complementary to this, a regulation-making power could be added to subsection 3(11) of the Conservation Land Act that would allow a regulation to define amendments, releases and other terms used in the act as well as to specify the tests, documents and processes involved, any exemptions, and a deemed approval if there is no response from the minister within 30 days. This could be a straightforward way to address our concerns identified under proposed subsections (4.1), (4.2) and (4.3) of section 3 of the act and allow further consultations on the details of the regulation in the near future.

Lastly, rather than delay Bill 16 itself, which, as I say, we strongly support, we ask for a commitment from the government to bring a comprehensive package of conservation easement and related law reforms forward within the next three months. These are overdue and would further increase the effectiveness and efficiency of using this important conservation tool in the implementation of many of this government’s conservation initiatives.

Thank you for the opportunity to present to you today.

The Chair: Thank you for coming in today. We should have time for perhaps one brief question, and that would be Mr. Marchese’s in the rotation.

Mr. Marchese: Good luck on your last recommendation. It should take at least another seven years to get that going.

Ms. Pim: I have no comment.

Mr. Marchese: Ms. Pim, you heard the legal opinion from Mr. Reble, who obviously indicated that they had the legal right, and Pickering understood this and the ministry understood it, to ease or lift the easements. Do you have a view on that?

Ms. Pim: As I mentioned, I am not going to read the 26-page legal opinion to you in two minutes. We commissioned the opinion, which outlined basically a number of ways in which Pickering had no legal right to terminate the easements. I’m happy to provide you with a copy of the opinion. But the bottom line is, the opinion we sought went through the whole process and determined that, in fact, Pickering did not have the right to do what it did.

Mr. Marchese: Thank you.

The Chair: Mr. McMeekin.

Mr. McMeekin: I’d like to ensure that that legal opinion is submitted—

Ms. Pim: I have a copy for each party. I’ll leave them with the clerk.

The Chair: The clerk will collect that from you. He’ll return the original, if it matters, and we’ll distribute it to the entire committee.

That concludes the time available for you. Thank you very much for your time and your deputation today.

DUFFIN CAPITAL CORP.

The Chair: The Duffin Capital Corp., Mr. Mark Flowers.

Mr. Mark Flowers: I have some material to distribute.

The Chair: The clerk will take your material and distribute it. Thank you for bringing it.

Mr. Flowers: It's basically some correspondence I'll be referring to.

The Chair: Mr. Flowers, welcome today. You will have 10 minutes to present to us. If you leave any time remaining, it will be divided among the parties for questions.

Mr. Flowers: Good afternoon, Mr. Chairman and members of the committee. My name is Mark Flowers. I'm a lawyer with Davies Howe Partners and I represent Duffin Capital Corp., which is a landowner within the Cherrywood area of the city of Pickering, an area also known as the Duffins-Rouge Agricultural Preserve.

Regrettably, Bill 16 is yet another example of what is becoming a very disturbing trend in provincial legislation that deals with land use matters. We again are faced with proposed legislation that is nothing less than oppressive, heavy-handed and completely disrespectful of private property rights. More than that, however, this legislation is premised on assertions that are clearly inaccurate, and it appears the bill has been motivated by reasons other than the public interest. My submissions this afternoon, therefore, will fall into two primary areas. First, I'm going to review very briefly and provide comments on the key provisions within the draft legislation that are of particular concern. Second, I will demonstrate the inaccurate premise upon which this legislation has been introduced.

Starting with the legislation itself, section 2 purports to rescind the city of Pickering's release of the easements that have been registered against various properties within the Pickering portion of the preserve. That represents a completely unwarranted interference with contractual rights, particularly in light of its intended retroactive effect. Not only is the provision disrespectful of private property rights and contractual rights, it's also disrespectful, I would submit, of the province's judicial system, in that it purports to supersede any court order to the contrary.

If we turn to section 3 of the proposed legislation, the so-called "limitations on remedies" provision, it's one that's becoming increasingly common in land use related legislation. That, I would submit, is frightening. We're starting to see this section popping up very often, and in fact one example I would note in that section is the reference to the Expropriations Act. The Expropriations Act recognizes that the province has in some cases the right to take away or interfere with private property rights, but a fundamental protection in that legislation is the right, of course, of the property owner to receive fair compensation. The act purports to eliminate, however, the right to claim compensation under the Expropriations Act, and that, I submit, is entirely unacceptable.

We have seen this provision before, and I recall that a similar provision exists in the Oak Ridges Moraine Conservation Act, which applies to lands on the Oak Ridges moraine. But notwithstanding the provisions in the Oak Ridges moraine legislation, I'm sure this committee is

well aware that there are certain development interests on the Oak Ridges moraine, both in Richmond Hill and in Uxbridge, that are set to be compensated with even more lands in Seaton. Seaton, of course, is that area that is highly environmentally sensitive. It's predominantly provincially owned land, and it's in Pickering immediately adjacent to the Duffins-Rouge Agricultural Preserve. I find that a very interesting coincidence.

Finally, section 4 of the bill proposes to amend the Conservation Land Act to allow conservation easement to be used for the "preservation or protection of land for agricultural purposes." The fact that this amendment is even proposed confirms, I would submit, our position that the agricultural easements in Pickering were never in fact authorized by that legislation. That should have been obvious, because although some may see agricultural land being equivalent to natural areas or conservation land, that is a myth. Unlike some conservation land that possesses a significant ecological function or contains natural heritage characteristics, agricultural operations by their nature often strip the land of all its natural features, and it includes the extensive use of pesticides, chemical fertilizers and so forth, which we know is damaging to the natural environment.

Section 4 also proposes to give the Minister of Natural Resources power over the release of conservation easements. If that's what the province wants to do on a go-forward, so be it, but there's no justification for attempting to impose that requirement on a retroactive basis, particularly here where the city was given the sole authority to hold and therefore, I would submit, release the agricultural easements.

Turning, then, to the second area of my submissions, it's important to note that the bases upon which the bill has been proposed are in fact false. In support of the bill, the province has—

Interruption.

The Chair: Just as a point of order, would everyone here who has a cell phone or other electronic device that makes noise please either turn it off or mute it. Thank you.

Sorry, Mr. Flowers. Please continue.

1720

Mr. Flowers: In support of the bill, the province has suggested that the preserve lands are "high-quality farmlands" and that the lands were intended to be agricultural forever. There's no truth to either of those statements; in fact, the evidence clearly demonstrates otherwise. Far from being high-quality farmlands, our client's agricultural consultant has characterized the lands as being a low-priority agricultural area. Through its recent growth management study, the city of Pickering has retained agricultural experts who arrived at a similar conclusion regarding the agricultural viability of the Cherrywood lands.

But you don't need to believe our experts or the experts for the city. You can simply listen to what the Ontario Federation of Agriculture had to say about the preserve lands in a June 22, 2004, letter to Maria Van

Bommel. I understand that the Ontario Federation of Agriculture may have appeared before this committee earlier. I don't know if you are aware of this letter; you'll find it at page 2 of the submission. If you're already familiar with it, I won't go on with it.

Given what appears to be overwhelming evidence to the contrary, my first request of this committee is that it produce for public review the evidence the province is relying on to support its assertion that the agricultural preserve does constitute high-quality farmlands.

Regarding the assertion that the lands were intended to remain agricultural forever, this may be what the province would like to believe, but it's an assertion that does nothing more than mislead the public. While the province is now quick to want to take credit for taking steps to protect these lands from urban development, it ignores the fact that the preserve lands were part of a much larger land holding that was expropriated by the province in the 1970s for the creation of a proposed urban community of some 200,000 to 250,000 people. Imagine that the province was actually considering urban development on lands that it now considers to be high-quality farmland.

Secondly, the province erroneously suggests that the parties to the 1999 agreement all understood that with the imposition of the easements, the lands were to remain agricultural forever. In fact, the evidence shows that this was not the intention and that the easements were to be held solely by the city, which could then use them as a tool to control the timing of development and to capture value for the municipality.

Let's not forget that the Ontario Realty Corp., which sold much of the preserve lands under the tenant purchase program, reluctantly agreed to the easements and did so only at the urging of a number of parties, including an environmental group known as the Green Door Alliance. Their solicitor, Mr. Attridge, has some comments about the value of the easements for the city. You'll find excerpts from his submission at page 4. In particular, I draw your attention to page 6 of the handout, under the heading "Transfer of Value To Pickering"—again, this is the solicitor for Green Door Alliance writing for the city.

The Chair: You have about two minutes.

Mr. Flowers: He says, "Because municipally owned agricultural" easements "hold the rights to restrict development, they retain within them any future development values. In the agricultural assembly over time, this could be worth millions of dollars. Some communities have had to buy such agreements.... Why should Pickering let current purchasers receive this potential benefit, when it could be handed to the town by the province for free?"

"Landowners will have full knowledge of the agreement and will buy land at prices for agriculture. But, if landowners want to develop properties beyond agriculture, they can pay the town to modify or release the town's interest in the agreement. This means money in the town's pocket and enhanced control over development."

So clearly, he's recognizing that the easements did not mean agriculture forever.

Likewise, the ORC knew full well that the city, as the only holder of the easements, had, without restriction, the authority to amend or release them on their terms and the potential for urban development within the preserve was, in fact, a distinct possibility. You'll see that expressed in the letter beginning at page 7. This is a letter from Mr. Budd of the ORC to the tenants. I draw your attention to page 8, where he says, "Since the inception of the tenant purchase program, it has been recognized that land use planning is a matter almost entirely within the control of the town of Pickering and the regional municipality of Durham. With the town of Pickering being the custodian of the agricultural easement and the zoning and official plan designation as agricultural, we believe that it is essential that the community understand that notwithstanding the inevitable interest of developers in this area and the enshrined property rights of individuals to convey their property as they see fit, the future use of these lands will be determined by the town and the region in the zoning process and the commitment of the town of Pickering to maintain the agricultural easement."

It goes on to say at the end, "The long-term use of these lands rests with the community and their elected representatives at the municipal and regional level."

The Chair: That concludes the time we have available for you today. Thank you very much for your submission before the committee.

ALTONA FARMS

The Chair: Altona Farms, Mr. Ken Rovinelli. Is Mr. Rovinelli in? Welcome. If you've been here for longer than a few minutes, you'll know that we have 10 minutes for your submission. If you leave any time remaining, it will be divided among the parties for questions. Please begin by identifying yourself clearly for Hansard and proceed.

Mr. Ken Rovinelli: My name is Ken Rovinelli. Thank you, Mr. Chairman and members of the committee. There are probably going to be some repeats in this submission, having heard everyone speak and me being the last one.

This committee is being asked to weigh the concerns of many of the people here, while having in many ways only read one page of a long and complex book. What you see on that page is a situation where land called an agricultural preserve had easements taken off title. It's far more complex than that, as you've heard. There's a history that extends back to the early 1970s when the province expropriated these lands for a new urban community.

What we have before us now is a bill which forces two parties into an agreement that neither wishes to be a party to, in this case the city of Pickering and certain landowners in the agricultural lands affected by the easements.

When my clients bought the land in Cherrywood, they were aware of the agricultural easements. Through the due diligence process it became clear that the nature of

the easements was to control growth, and that “perpetuity” was the language used in the easements in the absence of any studies, applications or schedules that could have suggested a more appropriate time frame.

A lot has been said today about the province’s intention to preserve these lands, yet we found no evidence that the province undertook any economic assessments or area-specific LEER studies on the farmland to prove that the area could be sustained as an agricultural enclave. As well, over the 30 years the province owned the lands, they did not invest to improve the agricultural viability of the area, and as was mentioned, the record shows that they didn’t want agricultural easements on the land when they were in provincial ownership.

Contrary to proving that this was a high-priority agricultural area worthy of protection with agricultural easements, the province simply called it an agricultural preserve and sold off the lands. One can only imagine why they did this.

The province’s ultimate position on the future of the agricultural preserve seemed clearly stated in correspondence that was sent to tenants who were acquiring the lands and to the city of Pickering and the region of Durham. Mr. Flowers went through much of that quote. Ultimately, I think the last statement that “The long-term use of the lands rests with the community and their elected representatives at the municipal and regional levels” is quite telling, because now both of these levels of government have spoken. The city of Pickering, after conducting an extensive growth management study, approved an official plan amendment that proposed urban uses in Seaton and on the southeasterly portion of the agricultural preserve now called the Cherrywood community.

The region of Durham also spoke through a council resolution, which stated that:

“The Ministry of Public Infrastructure Renewal be requested to:

“(a) coordinate, through the authority of Municipal Affairs and Housing, an amendment to the boundary of the ‘protected countryside’ under the greenbelt plan to remove the lands in the Cherrywood community;

“(b) identify the Cherrywood community as a ‘designated growth area’ in the final growth plan for the greater Golden Horseshoe.”

They didn’t come by these conclusions and recommendations lightly. The approach taken through the city of Pickering’s growth management study was scientific, with input from professional consultants, the general public and special-interest groups. The proposal was for an environment-first approach to planning and included a substantial agricultural input. Ultimately, not all of the agricultural lands were recommended for urbanization, only the least viable and only sufficient in area to accommodate the long-standing growth needs of the city of Pickering.

1730

The agricultural lands proposed for growth are fractured by roads, hydro corridors, public utilities, woodlots and a fairly significant component of class 4 to class 7

agricultural lands. The area is segregated from other agricultural areas and sandwiched between existing urban neighbourhoods of the city of Pickering, the future Seaton community and the proposed federal airport. There are also three residential subdivisions within the agricultural lands which further complicate farming.

These lands do not possess any of the characteristics of a priority agricultural area, and several professional agricultural consultants, as well as a professor from the University of Guelph, are on record that these lands do not comprise a sustainable agricultural area.

What the area does have is a lot of infrastructure. There are five local roads and two regional roads on the lands proposed for growth, a huge sanitary sewer, the York-Durham sanitary sewer, water mains servicing the existing subdivisions, a water reservoir and a pumping station. The area also has transit at the south limit, and an interregional transit line is being proposed that would run through the middle of the area. This is not an agricultural preserve. In fact, the area proposed for urbanization, the area on which the easements were lifted, is probably one of the few areas in the GTA that meets all of the standards set for smart growth. It is beyond those involved with the planning of this area, save a small contingent, why the province refuses to acknowledge the full story.

It was suggested by the minister introducing the legislation that removing these easements is a threat to the entire greenbelt. Of the total 1.8 million acres within the greenbelt, only this small area of the city of Pickering, less than one tenth of 1% of the total area, has agricultural easements. It seems trivial to propose that reinstating these easements will do anything to or for the greenbelt.

We have no problems with the provisions in Bill 16 that would strengthen heritage and conservation easements, or agricultural easements, for that matter, but these easements should be justified first. A heritage easement would not be placed on a building, for example, that did not meet certain criteria, nor would conservation easements be placed on lands without meeting the proper scientific or program criteria. In the case of the proposed urban area of the Duffins-Rouge ag preserve, there has been no justification for these easements.

Removing the easements does not open the door for development on the agricultural preserve. However, by refusing to acknowledge this lack of justification and by reinstating the easements, the province is sending a signal that growth from smart growth candidate areas can be decanted to areas with higher-priority agricultural lands without justification.

I would ask that this committee recommend to the Legislature that section 2 be removed from Bill 16 in its entirety. Thank you.

The Chair: Thank you. That concludes the time available for your presentation. I thank you very much for having come in.

This concludes the presentations that we had scheduled on this bill, and these hearings are concluded.

The committee adjourned at 1735.

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CONTENTS

Thursday 8 December 2005

Duffins Rouge Agricultural Preserve Act, 2005, Bill 16, <i>Mr. Ramsay</i> /	
Loi de 2005 sur la Réserve agricole de Duffins-Rouge, projet de loi 16, <i>M. Ramsay</i>.....	M-27
Subcommittee report	M-27
Ministry of Natural Resources	M-27
Mr. Kevin Wilson	
Mr. Eric Boysen	
Mr. Rob Lyon.....	M-28
Whitevale and District Residents Association	M-30
Ms. Sandy Rider	
Milton Rural Residents Association; Halton Region Federation of Agriculture	M-31
Dr. Lieven Gevaert	
Pickering Ajax Citizens Together for the Environment.....	M-32
Mr. David Steele	
Green Door Alliance	M-34
Mr. Brian Buckles	
Rouge Park Alliance.....	M-35
Mr. Gordon Weeden	
Rouge Duffins Greenspace Coalition	M-37
Mr. Jim Robb	
Ms. Bonnie Littlely	
Environmental Defence.....	M-38
Mr. Rick Smith	
City of Pickering.....	M-39
Mr. John Reble	
Ontario Nature	M-41
Ms. Linda Pim	
Duffin Capital Corp	M-42
Mr. Mark Flowers	
Altona Farms	M-44
Mr. Ken Rovinelli	