

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

Office of the Integrity Commissioner  
J. David Wake, K.C., Commissioner

Bureau du commissaire à l'intégrité  
J. David Wake, c.r., Commissaire

April 4, 2024

Marit Stiles, MPP  
Leader of the Official Opposition  
Room 381  
Main Legislative Building, Queen's Park,  
Toronto, ON M7A 1A5

*Sent by email*

Dear Ms. Stiles:

**Re: Opinion re. Patrick Sackville's Testimony**

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I have now completed my review of the matter you brought to my attention on January 12, 2024. In your letter you alleged that there was an apparent contradiction in the evidence of Patrick Sackville when he testified before me as a witness in the inquiry into whether Minister Steve Clark had breached the *Members' Integrity Act, 1994* ("MIA") with respect to his role in the government's decision to remove certain lands from the Greenbelt ("the Clark Inquiry").

Specifically, you provided me with a document, obtained by a freedom of information ("FOI") request, which is an email sent from the personal account of Ryan Amato, Minister Clark's then-chief of staff, to the personal email account of Patrick Sackville. At the time Mr. Sackville was the principal secretary to the Premier of Ontario, and he is now the Premier's chief of staff. The email is dated October 17, 2022, and purports to set out criteria for the removal of lands from the Greenbelt and information about land that could be added to the Greenbelt. You have suggested that "this email seems to contradict Mr. Sackville's claim, as described in paragraph 169 of [the Clark] report: 'Mr. Sackville said he did not discuss specific properties to be removed **or removal criteria** with Mr. Amato until the briefing that occurred on October 27, 2022'. [**Emphasis** in original].

You have asked me to review the document and provide an opinion as to whether it is inconsistent with Mr. Sackville's evidence given before me when he testified as a witness as part of the Clark Inquiry. I should indicate that prior to your request Mr. Sackville independently provided me with a copy of this email on December 20, 2023, after he recovered it from his personal email account in response to the FOI request.

## **Jurisdiction**

I am prepared to provide my opinion although my jurisdiction to do so is not certain.

Section 28 of the MIA permits a member to request that the Commissioner give an opinion and recommendations on any matter **respecting the member's obligations** under the Act and under parliamentary convention [**emphasis added**]. This section obviously does not apply to this request since it does not concern the requesting member's obligations.

Section 30 of the MIA authorizes a member who has reasonable and probable grounds to believe that **another member** has contravened the Act or parliamentary convention to request that the Commissioner give an opinion as to the matter [**emphasis added**]. Again, this section has no application because the subject of the request is not another member but rather a public servant employed in the Premier's Office.

Section 69 of the *Public Service of Ontario Act, 2006* authorizes me to make such inquiries as I consider appropriate where I have concerns that a conflict of interest rule has been contravened by a public servant who works in a minister's office. A member has no standing to make such a request. If I make a determination under this Act, it must be sent to the public servant's minister, in this case the premier. Anyway, the allegation against Mr. Sackville in this matter is not that he contravened a conflict of interest rule, so this section is inapplicable as well.

In proceedings under the MIA there is no appeal procedure akin to that which exists in the courts for consideration of fresh evidence. Even if there were such a procedure, the purported fresh evidence in this matter, the October 17 email in question would not alter the conclusion reached in the Clark Inquiry as to whether the minister breached sections 2 (Conflict of interest) and 3 (Insider information) of the MIA. That was the issue before me in that Inquiry. The question of when persons in the Premier's Office may have known about removal criteria turned out to be irrelevant to the issues before me in the Clark Inquiry.

However, the allegation that Mr. Sackville provided evidence at the Clark Inquiry inconsistent with an email later obtained through an FOI request has been made public and could have a reputational effect on him. Simply because there is no statutory method by which a review of the apparent inconsistency can occur should not prevent me from conducting a review of the matter in the interests of fairness. I recognize that I do not have the powers to summons witnesses or compel production of documents, which I have when conducting an inquiry under the MIA. In the absence of any objection from Mr. Sackville, who was given notice of your request and has cooperated fully in the course of this review, I am prepared to issue a non-jurisdictional opinion. In coming to this decision on jurisdiction, I am comforted by the words of the noted American jurist Learned Hand, which I paraphrase, who offered praise to those who go forward when they are uncertain they are right.

## **Publication**

Since the document you obtained and your request for this opinion have both been made public and referenced by you in Question Period, I think it is only fair that the opinion I am providing to you should also be made public. It has been posted on the Office of the Integrity Commissioner website.

## **Questions Posed to Mr. Sackville and His Response**

First, I asked Mr. Sackville for his response to your suggestion that the email you obtained was inconsistent with his evidence at the Clark Inquiry.

Second, I also inquired as to why the email had not been produced to me during the Clark Inquiry along with other documents he provided in response to my Production Request.

Finally, I asked why the email had been sent to his personal email address by Mr. Amato.

Mr. Sackville responded to me on February 25, 2024 as follows:

I write in response to your letter dated January 24, 2024.

### 1) Submissions and Response to Ms. Stiles [sic] Allegations:

There is no inconsistency between my interview with Ms. Currie from your office (which you attended) and the e-mail of October 17, 2022. As I explained in my interview, I was generally aware that there was a process in the Ministry of Municipal Affairs to identify criteria for lands that may be suitable for Greenbelt amendments. I was generally aware that the Ministry was developing these criteria, and that guiding principles such as serviceability, affordability, and public benefits were going to inform those criteria. However, as I indicated, the first time I became aware of the specific criteria that were contemplated was when I attended a briefing on October 27, 2022.

I am now aware that Mr. Amato had sent me an e-mail from his personal account to my personal account a few days before October 27, 2022. I have no recollection of seeing that e-mail until I searched my records again out of due diligence in relation to subsequent Freedom of Information requests. As I explain below, I do not conduct government business on my personal e-mail, and would not have expected or anticipated such an e-mail, particularly since there was some correspondence occurring on the government e-mails at that time. While I try to keep up with my personal e-mail as best I can, my priority is ensuring that I read what is sent to me at my Ontario.ca address, which can consist of hundreds of e-mails each day. It is not unusual for me to not check my personal e-mail for several days, or simply overlook an e-mail sent to my personal address.

As a result, when Ms. Currie interviewed me, I was not cognizant of the e-mail from Mr. Amato to my personal account. However, my answers remain accurate: I had no discussions with Mr. Amato about specific removal criteria until October 27, 2022, and I was first briefed about those criteria for the Greenbelt project at that meeting.

### 2) Why was the October 17, 2022 E-mail Not Previously Provided?

As a senior member of the Premier's staff, I have the utmost respect for your role in maintaining integrity in the legislature and across the government. As a result, when you previously sought documents relevant to the issues you are investigating, I conducted a diligent search of my records that would be responsive to your request. However, I did not locate the e-mail from Mr. Amato in making that search. This was an oversight on my part.

In conducting some due diligence related to Freedom of Information requests, I later became aware of this e-mail and, consistent with my obligations, provided it to you expeditiously.

### 3) The use of personal e-mail accounts

Government of Ontario employees are required to conduct government business using government e-mails and servers, to ensure transparency and effective record-keeping. I adhere to this important policy, and only conduct government business on my Premier's Office e-mail address (@ontario.ca). On the other hand, it is inappropriate to use a government e-mail address for personal, party-related, or non-government related business. As a result, I maintain personal e-mail accounts for matters that are outside of the scope of my government responsibilities, that I use outside of working hours. All of my personal email addresses pre-date my employment with the Government of Ontario and are known by some of my family members and friends as well as personal and academic acquaintances. I cannot speak to why Mr. Amato sent the e-mail of October 17, 2022 to my personal e-mail address. I can tell from reviewing my inbox that I did not respond to the e-mail, and in fact have no specific recollection of receiving or reading it.

I have summarized below Mr. Sackville's responses to further follow-up questions he provided to me on March 25, 2024:

1. He confirmed that he had no further documents responsive to my May 1, 2023 Production Request and nor was he aware of any further documents;
2. He believed that Mr. Amato's request on the evening of October 17, 2022 for a meeting to discuss the project he had been working on was timely and critical because the government's housing strategy was a priority;
3. He was not aware of how Mr. Amato obtained his personal email address but he noted that it existed on his personal social media files. Mr. Sackville confirmed that Mr. Amato had used his personal email address numerous times for party or partisan activity, as have political staff at various minister's offices throughout his various roles with the provincial government since 2018. The October 17 email in question was the only time Mr. Amato used Mr. Sackville's personal email address for government business as far as he could tell;
4. Mr. Sackville re-iterated that he has attested that he conducts government business solely on government email and political party work is not conducted on government communications platforms.

I am prepared to accept Mr. Sackville's position that until recently, he had no awareness of the October 17 email from Ryan Amato to his personal email address. It is entirely plausible that he would have given primary attention to the hundreds of daily emails he receives to his government email address and that he may have neglected to be attentive to his personal emails.

In coming to this conclusion, I have also considered the context in which the October 17 email was sent. On that day Ryan Amato had just attended a meeting with some of the premier's senior staff, not including Mr. Sackville. The meeting had not gone well from Mr. Amato's perspective. I have dealt with this meeting in the Clark Report. The meeting had been called for a purpose other than the Greenbelt project but it became a topic of discussion. It was, after all, in the mandate letter to which these staff had been privy. Mr. Amato was not prepared to brief them at that time. Mr. Truesdell, the director of housing policy in the Premier's Office, recalled that Mr. Amato had said he wanted to

bring forward the Greenbelt removals item around the same time when Bill 23 was planned to be introduced on October 25. A discussion ensued as to whether the Greenbelt initiative would be ready.

Mr. Truesdell testified at the Clark Inquiry that at the October 17 meeting he did not believe that Mr. Amato and ministry officials would be ready to move forward at the same time as Bill 23. Until this meeting Mr. Truesdell had not expected the Greenbelt item to be addressed until later in the term, in 2023 or 2024. Mr. Amato was obviously annoyed at Mr. Truesdell at this meeting and the incorrect assumptions he had made concerning the readiness of the Greenbelt project. This annoyance was reflected both in his evidence at the Clark Inquiry as outlined in the Report and in the text messages he sent to his Deputy Chief of Staff Kirstin Jensen immediately following the meeting. It was immediately after this October 17 meeting that Mr. Amato sent the email containing the removal criteria to Mr. Sackville. Given this context I think it is a reasonable finding to make that the criteria email was sent to Mr. Truesdell's boss, Mr. Sackville, to blunt any further criticism of the kind that Mr. Amato had just experienced at the meeting and to demonstrate that he and the project team were ready to move forward on Greenbelt removals.

I am also prepared to find that this email was not sent to generate a discussion concerning the criteria to be used for the removals. By October 17 the list of criteria originally put forward to the ministry officials had diminished importance in the selection of land to be removed from the Greenbelt. I have set out the evolution of the criteria in the Clark Report at paragraphs 143 to 151.

One official whom I cited in the Clark Report referred to the criteria as not being "very evidence-based." They explained that "if you applied those criteria to anything, you could have found hundreds of properties that would have qualified because they ... weren't really meant to eliminate properties. They were more meant to justify the properties that had already been selected to be removed essentially."

Another official cited in the Clark Report said "we weren't really going into deep land use planning analysis on the merits of it, because we didn't have detailed criteria to do so. And we didn't have time."

Because of this evidence, I have concluded that there would have been no reason for Mr. Amato to send the October 17 list of criteria to Mr. Sackville to generate a discussion about them or the specific properties to be removed.

Similarly, in the Clark Report I found that the selection process began and ended with Mr. Amato with one exception being a parcel put forward by the ministry which had been the subject of litigation. There is no evidence that Mr. Sackville played any role in the selection process.

Mr. Amato did have meetings with the premier's staff between October 17 and the 27<sup>th</sup>. Mr. Truesdell first learned about the Greenbelt project at the October 17 meeting discussed above. He testified at the Clark Inquiry that from the October 17 meeting until the October 27 briefing he generally recalled discussions with Mr. Amato about how much land should be added to the Greenbelt in the Paris Galt Moraine to replace the areas to be removed. There is no evidence that Mr. Sackville participated in these discussions until after the briefing on October 27.

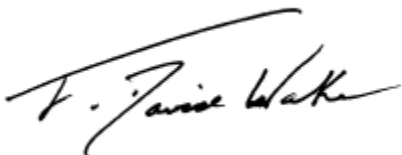
**Conclusion**

I have concluded that the October 17 email sent from Mr. Amato to Mr. Sackville's personal email in the circumstances I have outlined does not support a finding that Patrick Sackville knew about the specific removal criteria for lands from the Greenbelt or the properties selected for removal until he was briefed with others, as he testified, on October 27. The findings made in the Clark Report concerning the involvement of the Premier's Office are unaffected by the revelation of the October 17 email.

It is unfortunate that this email was not retrieved in accordance with the request for documents I made to Mr. Sackville in the Clark Inquiry so that it could have been covered during his interview. This review would then have been unnecessary. I have accepted his explanation as to how it was overlooked.

Thank you for bringing this matter to my attention and I trust that I have addressed your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "J. David Wake". The signature is written in a cursive style with a long, sweeping horizontal line above the first few letters.

J. David Wake, K.C.  
Integrity Commissioner

c. Mr. Patrick Sackville, Chief of Staff, Premier's Office.