

ARBITRATION TO DETERMINE  
THE 2014 STEWARD OBLIGATION FOR THE BLUE BOX PROGRAM

B E T W E E N:

ASSOCIATION OF MUNICIPALITIES OF ONTARIO and CITY OF TORONTO

Applicants

- and -

STEWARDSHIP ONTARIO

Respondent

**Affidavit of Vincent Sferrazza**

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**Introduction**

1. My name is Vincent Sferrazza. I am currently employed by the City of Toronto (“Toronto”) as the Director of Policy, Planning, and Support of the Solid Waste Management Services Division. My CV is attached.
2. I am not neutral between the parties because I am employed by Toronto, which is a party to this arbitration.

**My Background and Expertise**

3. I have a Masters of Public Administration from the University of Western Ontario. I received my Bachelor Arts (Honours) from the same university. I also hold a Certificate in Environmental Management and Auditing.

4. From 2001-2008, I worked for the provincial Ministry of Environment. From 2001 to 2007, I worked as the Supervisor of Non-Hazardous Waste Planning in the Waste Management Policy Branch. In this role, I provided policy, research, and administrative support for the development of Bill 90, which was later enacted as the Waste Diversion Act, 2002. Once the WDA was enacted, I assisted with its implementation. This involved setting up Waste Diversion Ontario, designating material for the development of a waste diversion plan via a Minister's request, and drafting Minister's letters related to the Blue Box Program Plan. Once the Blue Box Program Plan was approved, I assisted with monitoring the performance of the Program, amending it as necessary and engaging Program stakeholders.
5. In 2007, I was promoted to the position of District Manager of the Hamilton Region in the Operations Division of the Ministry of Environment. In that role, I was responsible for developing the district's enforcement and compliance plans with respect to environmental legislation, regulations, and approvals. In the same year, I was transferred to be the District Manager of Halton-Peel with the same responsibilities.
6. In 2008, I joined Toronto as the Director of Policy, Planning and Support for its Solid Waste Management Services Division ("SWMS") and have held that position ever since, other than between 2011 and 2012, when I was the acting General Manager of SWMS.
7. I have been directly employed in Blue Box ("BB") waste management since 1994, when I worked for the Regional Municipality of Hamilton-Wentworth as a waste management analyst. Some of my responsibilities there included implementing the waste diversion systems for multi-residential buildings. From 1998 to 2001, I worked for the Region of Peel as its Supervisor of waste program planning. This direct management continued in April, 2008 in my current role with Toronto.
8. Since I joined Toronto, I have been involved in the Toronto Blue Box program through my involvement with Waste Diversion Ontario ("WDO"), the Municipal-Industry Programs Committee ("MIPC"), and interactions with Stewardship Ontario ("SO"). In addition to this, I am also responsible for budget development for Toronto's BB program. I am responsible for Toronto's annual Datacall to the WDO and promotion and education campaigns to enhance BB collection rates. I also redesigned Toronto's multi-residential volume based rate program to its current model. I made decisions with respect to what new materials to include in Toronto's Blue Box collection. I am also involved in stakeholder management. I also analyze the operations of the BB program. As part of the senior management team of the Toronto's Solid Waste Division, I also make decisions about improvements to Toronto's BB program, including decisions regarding municipal recycling facilities.
9. The BB program makes up approximately 30% to 40% of my overall responsibilities. My staff's time is similarly divided amongst various responsibilities, including the BB program.
10. From 2008 to 2011, I represented Toronto on MIPC. From 2011 to present, I have been Toronto's representative on WDO's Continuous Improvement Fund ("CIF") Board of Directors.
11. As well, Toronto is part of the Regional Public Works Commissioners of Ontario ("RPWCO"), which is a municipal staff association comprised of senior management from single- and two-tier municipal governments who acts as advocates on behalf of municipal administration with respect to public works issues, such as waste management,

transportation, roads and water, etc. I am one of the co-chairs of the Waste Management subcommittee of RPWCO. Toronto is also a member of the Municipal Waste Association and the Ontario Waste Management Association, which deal with issues related to municipal processing and recycling, and the Canadian Standards Association, which is looking into creating standards for recycling, and participates in meetings of the Packaging Association of Canada, which looks at issues related to packaging and recycling.

### **Toronto**

12. Toronto is Ontario's most populous city, with a population of almost 2.8 million inhabitants, in approximately 975,000 households. Toronto is unique in that it has a very high percentage of multi-unit homes. Of the 975,000 households, approximately 50% of those households are located in multi-unit residential buildings, such as apartments, condominiums, townhouses and cooperatives. Toronto is an urban municipality. It is also the most ethnically and linguistically diverse municipality in Ontario. Over 140 languages and dialects are spoken in Toronto.
13. Toronto manages approximately 1 million tonnes of waste material annually, including over 450,000 tonnes of municipal waste, over 200,000 tonnes of recyclable material, over 130,000 tonnes of source separated organics, and over 100,000 tonnes of leaf and yard waste. It also manages electronic and household hazardous waste programs.
14. In 2008, Toronto introduced the volume-based rate system in order to pay for its waste management programs. Unlike all other municipalities in the large urban band, which operate based on their property tax revenue, since 2008, Toronto primarily receives its revenue for waste management (including the BB program) based on the volume of waste material collected from households. Regular residential garbage is only collected if placed in a leased waste bin. Unlike BB bins, which are free, a different lease rate is charged based on the size of the waste bin. The larger the waste bin, the more a household has to pay annually, thereby offering a financial incentive for households to reduce their waste going to landfill and increase waste diversion to the BB program.

### **Toronto's BB Program**

15. Toronto has had a BB program since 1989.
16. Toronto's BB program involves the collection of BB materials, the processing of those materials, the sale of those materials and promotion and education ("P&E").
17. The amount of BB waste that Toronto collects is greater in terms of weight and variety than any other municipality in Ontario. Since 1994, Toronto has added many more materials to its BB system than what is required by O.Reg. 101/94. Toronto collects some materials through its BB program that other municipalities do not collect, such as polystyrene foam, mixed rigid plastics, and plastic film. This additional material is more costly to process and doesn't generate the higher revenue returns as other collected BB waste can achieve. Furthermore, because of the volume of material that it collects, Toronto is able to sustain a market for the sale of its processed, recycled goods and is able to provide a financial incentive for businesses to invest in appropriate infrastructure. No other municipality can independently create a volume of material sufficient to sustain such markets.

18. Toronto has a single stream collection system. This means that all recyclable materials are put into one BB bin and are not sorted by the resident or the driver of the collection trucks. Furthermore, BB collection is done every other week and BB waste is not collected in the same week as regular garbage. This encourages homeowners to use the BB bins.
19. Toronto collects its BB materials using several methods depending on the collection point – curbside style, front end style, and manual bag lifting. Depending on their proximity, some vehicles transfer BB materials directly to a Materials Recovery Facility (“MRF”), while others bring the BB materials to transfer stations owned by Toronto. The waste is then put into City-owned and staffed transfer trailer haulers, which deliver the materials to one of the two MRFs used by Toronto, both of which are located in Toronto. Given Toronto’s size and traffic patterns, it is necessary to use transfer stations in order to avoid collection trucks wasting time sitting in traffic attempting to reach a MRF.
20. All of Toronto’s single family residences have access to curbside collection of its BB waste.
21. As well, in 2008, much of the collection of Toronto’s BB materials was automated – i.e. the materials are no longer lifted into the collection truck by hand, but rather by machine. This reduces Toronto’s costs by speeding up the collection rate and lowering the risk of injuries on the job.
22. Some of Toronto’s collection of BB materials is contracted out to two private companies, Green for Life and Miller Waste, each of which was selected following Toronto’s standard, competitive procurement process. The balance is collected by Toronto’s employees.
23. In 2012, our BB program collected over 210,000 tonnes of BB waste, of which 195,000 was residential. This is a significant amount of BB waste to be processed and the most of any municipality in Ontario.
24. After it is collected, the BB waste is then processed (that is sorted, packed, and combined) at a MRF. Toronto uses two MRFs to process its BB waste.
25. Only one of the two MRFs used by Toronto is owned by it, and is located on Dufferin St. (the “Dufferin MRF”). The other is owned and run by Canada Fibers Ltd. (“CFL”) and is located on Arrow Rd. (the “Arrow Rd. MRF”). CFL is also contracted by Toronto to run its Dufferin MRF. CFL won both contracts (i.e. to run the Dufferin MRF and to process a portion of Toronto’s BB waste at the Arrow Rd. MRF) through competitive procurement processes. The management contract at the Dufferin MRF will expire in 2015. The Arrow Rd. MRF contract will expire in 2020 with a possible extension.
26. In 2012, Toronto processed over 210,000 (195,000 was residential) tonnes in the MRFs it uses. Of that, approximately 157,000 represents the amount of residential BB waste that was marketed. The MRFs employ technology including optical sorting, magnetic sorting, belts, manual sorting, baling systems, sifting, etc. to sort the BB waste into various types of materials such as aluminium, steel, plastic resin by type, glass, old newsprint, old boxboard, old corrugated cardboard, fine paper, etc.
27. The Dufferin MRF was built in 2000 – 2001. Over the years, it has been upgraded several times to include new equipment as well as general facility upgrades. For example, in 2003, the Dufferin MRF was expanded. Toronto has also received funding from the Continuous Improvement Fund to purchase and install an optical sorting machine in its Dufferin MRF at

a projected cost of \$700,000.00. The optical sorter is used to sort HDPE and PET plastic containers mechanically instead of manually, with an anticipated annual savings of over \$210,000.00 in labour costs. The Dufferin MRF has a capacity to process 85,000 to 100,000 tonnes of Toronto's BB waste per year. A powerpoint presentation showcasing the Dufferin MRF has been provided in the materials.

28. The Arrow Rd. MRF was built in 2011 – 2013 using private capital, as it is not a Toronto-owned facility. It began receiving Toronto's BB waste in May, 2013. It is a state of the art facility which uses many types of sorting technology from fibre screens, ten optical sorting machines, paper spike machines, an automated paper magnet system, as well as a vacuuming system to sort plastic film. It can handle a capacity of 300,000 tonnes per year. For the months that it was operational in 2013, the Arrow Rd. MRF processed 83,000 tonnes of BB waste on behalf of Toronto. Given the technology in place at this MRF, many tours are given of this facility.
29. Prior to the processing of waste at the Arrow Rd. MRF, a portion of Toronto's BB waste was processed at a facility owned and operated by another third party operator, Metro Municipal Recycling Services Inc. ("Metro"). That contract expired in 2012.
30. Given that the Arrow Rd. MRF was not yet operational at the time that this contract expired, Toronto entered into temporary short-term processing contracts with other third party vendors until the Arrow Rd. MRF opened. These short-term contracts were obtained through Toronto's competitive procurement process, but given their short-term nature, produced a higher price than a comparable long term contract. However, those contracts have all expired and Toronto now pays for processing pursuant to its long term contract with CFL.
31. The initial decision to seek a replacement third party operator was delayed because the provincial government had announced that it was planning to move to full Extended Producer Responsibility ("EPR") and Toronto did not want to invest in any capital costs or make any financial commitments that would become unnecessary under the EPR model. Once it became apparent to Toronto that the move to EPR had stalled, Toronto had to take steps to find a replacement processing operator.
32. It is also anticipated that, when the Dufferin MRF operating contract expires, the Dufferin MRF will be decommissioned and processing capacity will be sought in the private sector through Toronto's standard, competitive procurement process.
33. After the materials have been sorted, packed and combined at the MRF, they are sold. Materials processed at the Dufferin MRF are sold directly by Toronto to market. The same is true of the non-fibre materials processed at the Arrow Rd. MRF. However, fibre materials processed at the Arrow Rd. MRF are sold by CFL after payment of a fee to Toronto.
34. The materials sold by Toronto are also governed by a competitive process known as the Offer to Purchase. Potential purchasers submit bids to Toronto in order to secure the right to purchase materials processed at the Dufferin MRF and the non-fibre materials (other than glass) from the Arrow Rd. MRF. As part of the Offer to Purchase process, Toronto is concerned in getting the best price for the goods, but is also concerned with other interests, such as whether the potential purchaser engages in unfair labour practices, has appropriate environmental protection, or uses child labour. The potential purchasers are primarily based in Canada but can come from all over the world. Toronto also tries to adjust the length of its

purchasing contracts to take advantage of high commodity prices and to minimize the effects of low commodity prices.

35. I am able to arrange a tour of a MRF.
36. SWMS also engages in extensive Promotion and Education for all of its programs, with a current budget of \$3.6 Million. This budget has increased from \$2.6 million in 2008. SWMS spent almost \$1.3 Million in BB advertising in 2012 and almost \$1.6 Million in BB advertising in 2013. Toronto mainly uses an advertising agency to prepare advertising campaigns with respect to the BB program and produces campaigns in multiple languages. Its ad campaigns employ a variety of mediums, such as newspaper, radio, bus shelters, transit ads, etc. In 2012 and 2013, Toronto had dedicated campaigns to introduce mix rigid plastics as a recyclable material to be added to the BB and to improve recycling in multi-residential buildings.
37. In 2011, Toronto won awards for its P & E from the Solid Waste Association of North America and the Municipal Waste Association.
38. BB waste diversion in multi-residential units (apartment tenants and condominium owners) is challenging, primarily because it is not as convenient for these residents to separate BB waste as it is in a single family home. Often, BB bins in residential buildings are not located on the same floor as the resident's unit, whereas there is a garbage chute on the same floor, thereby making the choice to deposit recyclable material down the garbage chute more attractive than taking it to the BB bin. Toronto devotes many P&E dollars to target this audience and increase their participation in the BB program.
39. Unlike single family residences, it is more difficult to hold multi-residential residents financially accountable for their participation and behaviour in the BB program. The volume based rate program for the multi-residential sector is applied to the property owner/property manager of the multi-residential building or a condominium board and there is an expectation from the City that they will attempt to provide the educational information (calendars, brochures, etc.) and participation tools (in-unit containers) supplied by the City at no charge, to the residents. If the aforementioned occurs, the residents may properly and frequently participate in the building's BB program, thus reducing the waste collection costs incurred by the property owner/manager/condominium board. However, without the education and tools they will not participate and are not directly affected with an increased financial cost.
40. The hidden nature of participating in a multi-residential building waste collection system allows the residents to disregard the necessary requirements for proper recycling without fear of reprisal, embarrassment or any perceived pressure from other residents.
41. Furthermore, unlike single family residents multi-residential tenants tend to be more transient regarding their residency at a specific building address. The increased turnover will result in the likelihood that newer tenants will not be properly educated on how to participate in the City BB program. Furthermore, the necessary participation tools may also be missing if previous tenants did leave them with the unit and the property owner/management fails to provide it to the newer tenants.
42. 300 to 400 Toronto staff work on various aspects of the BB program, including policy, contract management, material collection, transfer, processing and marketing.

43. Under its BB program, Toronto accepts many types of materials, such as clamshell containers, clear containers, disposable plastic plates, glass bottles and jars, aluminium cans, metal cans, cardboard cans, aluminium trays, plastic bottles and laundry detergent tubs and lids, empty aerosol cans and paint cans, foam food packaging, plastic grocery and shopping bags, newspapers, mixed paper, gift wrap, cardboard and envelopes. This is not an exhaustive list. Some of the materials Toronto is required by law to accept. Others, Toronto chooses to accept, as long as there are markets that are available for such materials so that some revenue from their sale can be generated. This increased diversion frees up landfill space that guarantees Toronto's future landfill security. Toronto also collects plastic bags and polystyrene foam because it chooses to be a leader in environmental responsibility, even though the collection and sale of these materials is not necessarily economically viable. The types of materials accepted by Toronto in its BB Program have increased over time.
44. Toronto's BB program is unique given the volume and variety of materials it collects, the user fee based revenue system it has, the number of multi-residential units it has from which BB materials is to be collected, as well as the increased P&E it uses to target increased diversion in multi-residential units.
45. The exclusive characteristics of Toronto's BB program makes its inclusion within the Group 1 cost band in the Cost Containment Plan unjust and it not reasonable for Toronto to be compared to other municipalities within the cost band when no other municipality implementing a BB program is subject to the same operational and costs pressures.

#### **Effectiveness and Efficiency**

46. Municipalities in general, and Toronto in particular, are doing a very good job in ensuring that their BB programs continually improve on maximizing the amount of materials collected at reasonable cost.
47. Toronto, like many municipalities, are under constant pressure by its residents and its Council to keep the costs of running its programs down and avoiding rate or tax increases. Running the BB program is no exception. As a public entity that receives its revenue from residents, Toronto is conscious of the effect of rising costs on revenue sources. From 2011 – 2013, direction from Toronto's City Manager has been to maintain division budgets with a 0% increase from year to year. Specifically, with respect to the BB program, keeping costs down will avoid the need to raise volume based rates for the waste bins that primarily fund the program. The failure to get a full 50% of a previous year's net BB program costs would reduce the funding for the BB program, which could lead to a raise in rates to cover that deficit.
48. Toronto does not measure the amount of BB materials that are not captured by their BB program and that may find their way into another part of its waste management system, such as the garbage stream. As such, it is not possible to determine what percentage of Toronto's eligible BB materials are actually diverted from landfill. However, SO publishes a province-wide BB diversion rate, which is calculated based on numbers that the municipalities report in their annual Datacall and the amount of packaging that the stewards themselves have sold and therefore put into the marketplace. This province-wide BB diversion rate for 2012 was 64%.

49. Nonetheless, Toronto does conduct regular waste audits of all its waste streams, including BB waste. As a result of such waste audits, Toronto is able to determine what percentage of BB material during the audit period is finding its way into other waste streams, including garbage. In 2012/13, this percentage was 15%. Toronto is increasing the amount of BB material that is collected under its BB program. This has two effects: first, more of the existing BB waste is actually being diverted from landfill, so more of the collection cost is actually resulting in diversion; and second, more captured BB material results in more processing costs to process that material. However, increased costs represent the price to pay for increasing diversion.
50. As well, the BB waste audit measures the amount of contamination (i.e. non recyclable material) found in the materials collected in Toronto's blue bins. The 2012 – 2013 audit indicated that the contamination percentage was 10%, down from 13% in the 2010 – 2011 audit. Reduced contamination means more revenue from a less contaminated marketable product and lower processing costs to sort out the contaminated material.
51. Toronto's single-family household participation rate in the BB program is approximately 96%. These rates have been steady for many years and show a high level of participation in the BB program. We do not have similar information for multi-residential buildings because Blue Boxes are not collected from the curbside in these situations.
52. These statistics indicate that the amount of money that Toronto spends on educating its residents is having an effect in reducing the amount of BB materials found in non-BB programs, as well as reducing the amount of contamination found in the BB program.
53. Given the sorting technology used at the Dufferin MRF and the Arrow Rd. MRF, the use of the single stream collection system is efficient. It was no longer necessary to have separate compartments in the collection trucks for multiple streams of material nor was it necessary for workers to manually sort the BB waste into the different streams at curbside prior to deposit at a MRF. All BB waste is now collected in one compartment on the collection truck and all such material is brought to a MRF to be processed.
54. Furthermore, it was more efficient to separate the collection of garbage from the collection of BB waste and collect each on separate, alternating weeks.
55. As well, the Arrow Rd. MRF uses state of the art technology to process Toronto's BB waste as efficiently as possible. When the contract for the operation of the Dufferin MRF expires, Toronto will seek private sector processing of the BB waste that the Dufferin MRF was previously processing, using a competitive procurement process.
56. When Toronto made the decision in September, 2012, to accept mixed rigid plastics, the MRF operated by Metro was not able to process this new type of material given the capabilities of its MRF. However, the contract with Metro did not provide Toronto with the ability to require Metro to process new types of materials as they were introduced into the BB waste stream. Accordingly, until the Arrow Rd. MRF opened, mixed rigid plastic could only be processed at the Dufferin MRF.
57. Toronto learned from this situation. In its current contract with CFL, it contemplates price adjustments to allow for the addition of new materials into the BB waste stream. As well,



Toronto ensured that the Arrow Rd. MRF itself was designed to allow for future expansion to accommodate such new materials.

58. Toronto's procurement practices are competitive. Toronto has a sufficient marketplace to get multiple bids for contracts, which encourages competition and reduces price when purchasing goods or services and increases price when seeking to sell goods or services. For example, there were four proposals received with respect to the Request for Proposals that led to the use of the Arrow Rd. MRF, with CFL's proposal being the successful one. The use of the Arrow Rd. MRF replaced a prior private sector MRF owned and operated by Metro Municipal Recycling Services Inc.
59. Toronto has extensive procurement policies. It also has a purchasing by-law, Chapter 195 of the City of Toronto Municipal Code, which governs the competitive procurement process. In general, the procurement of a good or service by Toronto involves its Purchasing and Materials Management Division ("PMMD"). PMMD is responsible for ensuring all purchases assist in delivering City services at the best value possible for residents of the City of Toronto.
60. As well, the Arrow Rd. MRF operating contract provides a financial incentive for CFL to have low contamination rates in the finished product. The contamination rate is the percentage of non-recyclable material that is bundled with the recyclable material that is being sold. The higher the contamination rate, the lower the price that the bundle of BB material will sell for.
61. If CFL does not stay under a specified contamination rate for a given material, it is assessed a financial penalty and must refund to Toronto a portion of CFL's processing fee. Effectively, Toronto would pay a lower processing fee as the contamination rate increases. Furthermore, since CFL sells the fibre materials sorted at the Arrow Rd. MRF to outside parties, it must first purchase those fibre materials from Toronto. The price that CFL must pay to Toronto for those materials is based on a low contamination rate and, therefore, for a relatively high price, regardless of the actual contamination rate. This payment structure helps to ensure that Toronto gets low contamination rates in its non-fibre material, which it sells, and a relatively high price on the fibre material that CFL buys from Toronto. This reduces costs and increases revenue.

#### **Cost of the BB Program and the Annual Datacall – Issue 2**

62. Toronto reports to the WDO Datacall every year. The Datacall records information on the tonnes collected and processed and the net costs Toronto incurred in a given year for running its BB program. This Datacall and what information it captures has changed over the years as municipalities, Stewardship Ontario, and the WDO came to agreements as to what types of information should be captured, such as the percentage of administrative cost or the amortization of capital costs. Those debates have largely been resolved.
63. Nonetheless, completing the Datacall does require time, expertise and due diligence review.
64. The 2012 BB program gross costs for Toronto as verified by the WDO was \$69,042,641.00.
65. After revenue of \$16,074,934.00, our net cost for 2012 was \$52,967,707.00.
66. These numbers are accurate.

67. Toronto has two dedicated people whose responsibility it is to collect and input the information into the Datacall. Their names are Renee Dello and Pap Mishra. They, along with support staff, collectively spend about 60 days in March of each year preparing the Datacall and completing the online form. Prior to submitting the data, Ms. Dello and Mr. Mishra have the information reviewed by their managers and then I review the numbers with them and look for anything unusual that may be questioned by a third party, such as the WDO. Any such anomalies or trends are then looked into by me. In the end, the City clerk will sign off on the Datacall information as set out in the Blue Box Program Plan.
68. The information submitted in Toronto's Datacall comes from numerous sources. The weigh scales capture weights electronically and that information goes directly into the computer. Toronto's electronic payroll system also captures information with respect to salary and benefit costs of Toronto staff. Toronto staff also review invoices to see that they match the weigh scale information.
69. After the Datacall is submitted, the WDO will follow up with us if it has any questions.
70. Finally, Toronto may also be audited by the WDO. In fact, Toronto has been audited four times. All of the audits indicated that our submissions were fair and acceptable and one of the audits actually resulted in Toronto receiving additional funding.
71. In addition to WDO audits, Toronto has an auditor general, appointed by Council pursuant to the *City of Toronto Act, 2006*. The auditor general's responsibilities include assisting city administrators in being accountable for the use of public funds and obtaining value for money. Solid Waste Management Services Division, like other Toronto divisions, is audited from time to time by Toronto's auditor general and is required to keep and does keep records to document its spending, including spending related to the BB program. These documents include contract and procurement documents, weigh scale tickets, payroll documentation, etc.

#### **Cost Containment – Issue 1**

72. I attended meetings of the board of Waste Diversion Ontario (WDO) from 2003 to 2007 as support for the Ministry of Environment member of the Board. I have not attended since or as an employee of the City of Toronto.
73. Until the WDO board was restructured in 2012, the WDO and its staff were heavily dependent on Stewardship Ontario (SO), and its stewards. For example:
  - a. Industry appointed the majority of the WDO board; and
  - b. The majority of the WDO budget came from fees paid by SO.
74. My understanding of the meaning of s. 25(5) was that municipalities would be paid 50% of the face value of their actual net costs. I also understood that these numbers would have to be related to the Blue Box program, reported, and verified.
75. During my time at WDO board meetings, I do not recall any proposal to the WDO board that it should change this cost split to increase the share paid by municipalities as compared to stewards.
76. I never witnessed any vote by the WDO board that would change this cost split to increase the share to be paid annually by municipalities as compared to stewards.

77. I do not recall any discussion at the WDO board about whether it had the authority to change the equal 50-50 cost split between municipalities and stewards for municipal Blue Box programs. Indeed, it is my belief that this would only be possible through legislative amendment.
78. After I joined Toronto, from May, 2008 to 2011, I was the Toronto representative on MIPC, which was a committee of the WDO. Its mandate is set out in s. 5.4 of the Blue Box Program Plan. By then, the Cost Containment Plan (the "CCP") had already been approved by the Minister and its implementation and effect discussed by MIPC. I was not a part of those discussions.
79. However, both when I was with the Ministry and when I was on MIPC, I never understood that the CCP would reduce the amount of the annual stewards' obligation or reduce what municipalities were to receive to an amount less than 50% of their actual net costs. Rather, the CCP was a set of principles, applicable to municipalities and stewards, that when applied, where possible, would have the effect of slowing the increase in costs of running the municipal BB programs in the future. It was the hope that, as cost containment measures were implemented, future *actual* costs would be affected, which would then have an impact on the stewards' obligation. However, this impact was indirect.
80. When I was on MIPC, the CCP was not used for anything other than as a tool to negotiate the stewards' obligation. The CCP referred to cost bands. My understanding of cost bands was that it was mechanism used to group municipalities together for comparison purposes and to assist in identifying municipalities who were performing differently in comparison to other municipalities in the same cost band. Then inquiries could be made into why those "outlying" municipalities were performing where they were. It may be that there were reasons unrelated to inefficiency that explained the poor performance or it may be that such municipalities could be encouraged to adopt practices that would increase performance in the future now that they had been identified as poorer performers in comparison to other municipalities in their cost band. However, none of this affected the amount of the stewards' obligation for a given year.
81. Once again the exclusive characteristics of the City of Toronto's BB program made its inclusion within the Group 1 cost band in the CCP inappropriate. It would be unreasonable and impractical for Toronto to try to adopt best practices of other municipalities within the Group 1 cost band when no other municipal BB program has to address similar operational, social, demographic and political issues and demands that invariably produces higher BB program cost pressures.
82. When negotiating, Stewardship Ontario would use the cost bands to negotiate its stewards' obligation. A formula was applied to each band which I did not understand and this formula produced a number. Over the years, this formula changed. However, this number would ultimately be compared to the actual net costs coming through the Datacall. Stewardship Ontario would use the cost band number to calculate the stewards' obligation that it wanted to pay. And then the negotiations would take place.
83. During this time, other people who were involved in Blue Box funding included Andy Campbell, Andy Pollock, Geoff Rathbone, Jay Stanford, Craig Bartlett, and Peter Hume.
84. I adopt the following paragraphs of their affidavits:

- a. Craig Bartlett: paragraphs 55, 56, 62, 63, 64, 68, 69, 70, 74, 75, 78
- b. Mike Birett: paragraphs 6 to 13, 19, 22, 25 to 28, 30 to 32, 35 to 39, 42
- c. Andrew Campbell: paragraphs 27, 30 to 35, 37, 40, 47, 49, 58 to 61, 72, 88 to 90, 97 to 99
- d. Robert Cook: paragraphs 33 to 36, 44 to 50, 54, 64, 66, 67, 70 to 82
- e. Denis Goulet: paragraphs 8 to 10, 13, 18 to 24, 26, 29, 31
- f. Richard Findlay: paragraphs 87, 88, 90, 92, 94 – 99
- g. Peter Hume: paragraphs 35 – 40, 43 – 47
- h. Maria Kelleher: paragraphs 13 to 16
- i. Andy Pollock: paragraphs 13, 18 to 23, 27, 28, 34 to 37 and 39 to 41 (except that I was a staff person supporting the MOE representative to the WDO Board, who was Keith West and then PK Misra, then John Vidan. I was not a member of the WDO board), 42 to 47
- j. Geoff Rathbone: paragraphs 23 to 31, 32 (except that we were audited four times), 33, 34, 39 to 45, 47, 49, 52, 53, 55, 57, 59, 61 to 72, 73 (except that tonnage is now going down), 75 to 79, 85, 87, 88
- k. Jo-Anne St. Godard: paragraphs 21 to 24, 40 to 42
- l. Jay Stanford: paragraphs 39 and 41 – 43 and 46a.i. (as they apply in general), 49, 52, 53, 55- 57, 66, 67, 69, 71
- m. Derek Stephenson: paragraphs 21 to 26, 48, 49, 51, 55, 56, 58 to 61, 64 to 74, 82 to 83, 87 to 89
- n. Jake Westerhof: paragraphs 11, 15, 18, 19, 28 to 31

85. By omitting a paragraph in the above, I do not mean to suggest that I disagree with it. Most of the other paragraphs contain details that are not in my personal knowledge or that, in my opinion, require some clarification.

86. In an effort to reduce its costs, increase its revenue and become more efficient, Toronto has privatized garbage collection for half of the city, it has upgraded the technology at its Dufferin MRF, it uses private operators to process its waste, it has implemented automated collection, it has increased the size of its bins in order to reduce the frequency of collection. Toronto also tries to adjust the duration of its Offers to Purchase to take advantage of high commodity prices and minimize the effects of low commodity prices in an effort to increase revenue.

87. When annually submitting gross and net costs into the WDO Datacall Toronto is confident that these costs are predicated on industry standard and regularly implemented cost containment and best practice initiatives, to ensure that Toronto's BB program will maximize value for its residents, but also improve the payout model best practice score.

### **Best practice score**

88. As part of the Datacall, municipalities are required to submit answers to questions with respect to what the WDO considers to be “best practices” in order to give each municipality a “best practice score”. For 2012, the City’s best practice score was 97%.

89. Toronto’s score was negatively impacted in one area because the questions asked were neither applicable nor logical for the City of Toronto.

90. The questions where Toronto did not do well relate to municipalities joining together in order to take advantage of economies of scale. This rationale does not apply to Toronto and is

illogical for Toronto to implement. Because of our size and the amount of BB waste we collect and process, we already have an inherent economy of scale and do not need to band together with other municipalities to achieve those cost savings or generate higher revenues that come with higher volumes. Furthermore, transferring BB waste to or from other GTA municipalities along the most congested series of highways in Canada would be environmentally harmful (transfer trailer vehicles would be idling for extended period of time emitting greater toxic pollutants into the atmosphere) and extremely time consuming thus increasing costs and negating any possible cost efficiencies. Nonetheless, our best practice scored is negatively impacted because we cannot say that we are joining together with other municipalities.

91. Similarly, we run P&E campaigns that are unique to Toronto's situation, such as the introduction of new materials or the targeting of multi-residential buildings. We share resources with other municipalities where appropriate, but often it makes no sense for Toronto to join in an advertising campaign with another municipality whose program and needs are different than Toronto's.

#### **Payout model**

92. Toronto supports the concept that there should be a financial reward for those municipalities that operate more efficiently and take steps to improve their efficiency as well as a financial penalty for those municipalities who are wasteful.
93. Toronto supports the concept that the payments to *individual* municipalities should reflect efficiency efforts and successes.
94. However, this does not mean that Toronto agrees with a reduction of the *Stewards' Obligation* based on efficiency. Those are two different concepts.

#### **Annual negotiations**

95. When I was on MIPC, the municipalities and Stewardship Ontario negotiated annually about the Stewards' Obligation.
96. Stewardship Ontario would refer to cost bands and the calculations made pursuant to those cost bands (based on a formula I did not understand) as a basis for seeking to reduce the net costs spent by municipalities, in those years where the verified net costs exceeded the amount produced by the formula.
97. In those years where the verified net costs were lower than what the formula used by Stewardship Ontario produced, negotiations were less contentious, but Stewardship Ontario still questioned the costs and there were still disputes over the allocation of costs to the BB program.
98. In those years when the verified net costs were higher, negotiations were more difficult and drawn out. We did not have the resources to analyze, understand or counter what the stewards were telling us. However, municipalities wanted to get paid and wanted to get recognition that running municipal BB programs were becoming more costly from year to year through an increase in the amount of the Stewards' Obligation. We negotiated with stewards to get to a number that we could live with. However, each set of negotiations dealt with a specific year and did not impact on the amount of a future year's Stewards'

Obligation. They were negotiated separately from year to year and there was no uniform methodology applied.

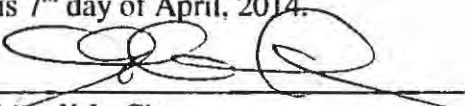
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99. Municipalities are not permitted to add the “value” of the in-kind lineage they receive to their costs for the year in which the in-kind lineage is used. As such, this cost to municipalities is not captured in a future year’s Stewards’ Obligation even though it results in less cash being received by municipalities.

**Conclusion**

100. In my view, the amount of the 2014 Steward’s Obligation should be at least \$114,072,322.00, because it should be 50% of the verified net costs incurred by municipalities in 2012.

SWORN before me )  
at the City of Toronto, )  
in the Province of Ontario, )  
this 7<sup>th</sup> day of April, 2014. )

  
\_\_\_\_\_  
Glenn K.L. Chu )  
A Commissioner for taking Affidavits, etc. )

  
\_\_\_\_\_  
Vincent Sferazza

## PARAGRAPHS ADOPTED BY VINCENT SFERRAZZA IN HIS AFFIDAVIT

### Paragraphs from Craig Bartlett's Affidavit:

55. As program operator, I have seen a significant change in the waste stream. (I have attached my report on measuring diversion and corresponding presentation). The changes from glass to plastics, lightweighting of plastics, steel and aluminum cans has been significant.

...

56. Light-weighting of materials is having many impacts on our recycling program. First, the reduced weight of materials gives the impression we are not improving our program recovery year over year. The only metric we use for measuring program growth is weight and this has led to misleading conclusions on many fronts.

...

62. For a MRF operator to process 1 tonne of plastic containers, there are many more units that requires "picks" or capture now as opposed to 10 years ago. It's not that we are generating less, we are generating more but the weight per unit of garbage has been decreasing. I have some very good examples of lightweighting glass, plastic and newspaper. These examples can be found in the attached presentation on diversion measurement.

63. One of the areas Stewardship Ontario overlooks when analysing municipal data is contract terms. For collection operations, municipalities will typically put out a collection contract for a minimum of 7 years, this allows the contractor to depreciate equipment costs over a longer period of time and keeps collection costs to municipalities lower. The same is true for MRF processing contracts as well, longer contract periods often results in greater certainty in investment and reduced costs to municipalities. Many contracts have multiple year extensions that could extend a contract well beyond 9 years.

64. After contracts expire, and new procurement processes are run, it is not unusual to have "sticker shock" with the new collection costs. It is difficult to compare previous contract costs (well over 7 – 10 years prior) to new contract costs.

...

68. "Best practices" is a term commonly used by industry and municipalities. Municipalities are always interested in best practices. To us, it means we are keeping abreast of changes within our industry to exemplify the best way of doing things at the lowest possible costs and with continuously improving outcomes.

69. Although there is much variation among municipalities, in Ontario, due to geography, socio-economics, housing stock (single family versus multi unit), cultural diversity, political landscape, etc., there are many common elements municipalities can use to ensure their program

is continually improving. These elements include proper promotion and education – showing a commitment to continual investment in educating residents about BB program, procurement processes for collections, processing and marketing of commodity materials, where possible – collective approach to promotion and education and other areas where common messaging can be used.

70. Our Region is widely recognized as a leader for waste diversion best practices.

...

74. The WDO Best Practice score is collected through the Datacall. It gets used in the payout model to help determine how much a municipal program is paid as compared with peers in a grouping.

75. Our 2012 Best Practice score was 93.3%.

...

78. Using the same words for different things caused problems at MIPC.



### **Paragraphs from Mike Birett's Affidavit:**

6. The CIF's role is to work with Ontario municipalities and industry to improve BB waste diversion through new technologies, best practices and advisory and educational services.

7. On our website, <http://cif.wdo.ca/about/index.htm>, the CIF describes itself as "a catalyst for change which fulfills its mandate by providing funding, technical support and training for municipalities. CIF staff actively engage stakeholders in identifying and developing best practices and technological and market based solutions to challenges associated with the operation of Ontario's Blue Box programs."

8. The CIF Board of Directors includes, amongst others, representation from AMO, the City of Toronto, SO, and WDO.

9. The purpose and goal of the CIF, as stated in the original 3 Year Strategic Plan (Dec 2007) is to:

a. provide funding to municipalities in support of projects and programs that increase cost-effectiveness, increase diversion of Blue Box (BB) materials and/or increase the performance of Ontario's residential BB recycling programs. Through projects funded by the CIF, the Fund seeks to maximize the efficiency of both individual municipal recycling programs as well as the system as a whole.

b. identify and apply 'best practices' and preferred approaches within and across municipalities as well as to help foster and support innovation throughout the system. The CIF will also play a key role in helping to establish, measure and share benchmarks and best practices across the entire province to ensure that all municipalities have access to the information and resources necessary to maximize the performance of their local "blue box" recycling program, and to take advantage of scale efficiencies or other opportunities that might exist across multiple municipalities or regions.

10. In simplistic terms, its mandate is to improve the effectiveness and efficiency of the Ontario BB program. Over the past six years, the CIF has provided financial and technical assistance to assist both municipalities and stewards in fulfilling their Cost Containment Plan (CCP) obligations and in addressing priority concerns of all the partners.

11. The CIF was set up by an agreement dated October 17, 2007 between SO, Waste Diversion Ontario (WDO), AMO, and the City of Toronto. This agreement had a three-year term after implementation of the CIF and has since expired. A subsequent agreement was signed by the parties on July 28th, 2010 which further defined the CIF as the successor of the Effectiveness and Efficiency Fund and set out the process by which the original October 17, 2007 agreement would be implemented and supported by the parties. This agreement was intended to remain valid until Dec 31st, 2011.

12. On July 20th, 2011, these initial agreements were replaced by a new agreement, which was scheduled to expire December 31, 2013. On December 11th, 2013, the parties agreed to extend

the expiry date of the 2011 agreement to December 31, 2014. The CIF is now operating under the authority of the July 20, 2011 agreement as extended.

13. The CIF is funded by municipalities through the allocation of a portion of the funds paid by stewards in the annual Stewards Obligation as required by the WDA.

...

19. Some funds have been used to help SO address its obligations under the CCP such as market development and address issues of concern to its members.

...

22. The CIF has been very effective in helping municipal BB programs contain costs and increase effectiveness as documented in our recent report, 2008-2013 CIF Review (May 2013).

...

25. On December 22, 2003, Minister Dombrowsky informed WDO that she had approved the Blue Box Program Plan (BBPP). In her letter, the Minister also requested that WDO propose "new measures or enhancements to existing measures that will allow the Blue Box system to divert at least 60 per cent of Blue Box wastes by 2008". Since that time, municipalities have reported that they continue to be pushed to divert more material.

26. It is fair to say that within the industry, it is understood that expanding the BB programs in Ontario to capture additional material (i.e., both improved capture of existing materials and addition of new materials) increases the overall system cost. Despite this fact, there is competing pressure from the same stakeholders to contain and/or reduce system costs.

27. Ontario enjoys one of the highest BB diversion rates in North America and captures one of the broadest spectrums of materials while having one of the lowest normalized operating costs. Municipal BB programs have a right to be proud of this success, and of their continuing efforts to improve. I am regularly queried and/or asked to speak about Ontario's successful BB program at conferences across Canada and the US.

28. The majority of municipalities across Ontario are under significant budgetary pressures and, as a consequence, are, generally, very concerned about the efficiency of their BB programs. Regular oversubscription of the CIF Request for Expression of Interest (REOI) process and high levels of participation in CIF led training events is a good indication of their interest and willingness to improve their programs.

...

30. Why do costs vary so much within cost bands? Variability within the cost bands can be a function of several factors, including:

- a. The unique nature of municipalities and their programs makes accurate comparison, within 9 basic groupings, difficult. Programs like Toronto or Thunder Bay are fundamentally different from their cost band.
- b. Point in time contract costs. Many municipal contracts run for 7 or more years. During that period a municipality's cost band may reflect cost increases that are artificially held in check by the terms of their contract making them appear to be more efficient. When their contract is retendered, this aberration is typically corrected.
- c. Programs may not capitalize equipment and report costs in a consistent manner.
- d. Variability in the basket of BB materials collected by a given municipality can also cause significant program cost differences. Some programs could reduce costs by ceasing diversion of high cost materials but would face significant stakeholder opposition.

31. Many of the program cost drivers are outside the control of the municipality to correct. While some municipalities are more efficient than others, generally the higher cost programs face legitimate challenges that prevent them from being cost competitive.

32. Best practices are not "one size fits all". They do not always save money.

...

35. There are several factors that are driving up reported BB costs, including:

- a. Improved reporting. It should be recognized that program costs were grossly underestimated in the first year of the program. In subsequent years municipal staff was confused by an unnecessarily complicated datacall process and received inadequate training resulting in many under-reporting their actual costs. Efforts by all parties to simplify the process and familiarize municipal staff with eligible costs is gradually improving the datacall accuracy and municipalities are being more inclusive in their cost reporting which is driving reported costs up.
- b. Inflation. If the program were to remain entirely static, costs would still increase by at least inflation. Certain BB operations are also particularly exposed to labour and fuel cost escalation which is not properly reflected in standard Consumer Price Index calculations, the usual measure of inflation.
- c. Program growth. Even if unit costs to operate the program remained static, the overall program cost would increase in close correlation with population growth, given the high level of accessibility. Over the duration of the program, dozens of additional municipalities have begun reporting to the datacall, thereby increasing overall reported costs. They have typically been remote rural municipalities and First Nation communities with inherently higher operating costs which further exacerbate the issue.
- d. Program expansion. Through the efforts and at the request of various steward lobbying groups, municipalities and the CIF have expanded Ontario's BB program to include additional materials ranging from tetrapaks, spiral wound containers, laminated paper

products, EPS, film, 3-7 plastics, thermoforms, aerosols and more. In many cases, the addition of these materials has had significant capital and operating impacts both on a unit operating cost basis and overall cost basis.

e. Packaging design changes. Stewards have been active in redesigning packaging to, amongst other things, reduce shipping costs, extend shelf life, reduce product damage in transit and appeal to consumer demands. This can reduce steward costs, but has had several significant cost impacts on BB programs:

- i. Lightweighting of packaging streams means more of the same containers must be collected in order to divert the same weight of material thereby increasing the unit cost to collect and process a tonne of material. Similarly, the move to single use and single serving containers also increases unit operating costs because, again, more containers need to be collected and processed to achieve the same weight as their predecessor 'bulk' or reusable container.
- ii. Replacement of traditional materials such as glass containers, which are inexpensive to process, with expensive to process materials, such as film pouches, also increases system costs. It negatively impacts the long term operating costs of the system because changing the material mix forces municipalities and their contractors to retool their processing lines, makes the system infrastructure prematurely obsolete and forces operators to prematurely write off capital investments.
- iii. Lack of standardization of resins and adhesives used in various packaging designs and the introduction of multi-laminate containers have had serious repercussions on processing costs through contamination of traditional material streams.

f. Changes in commodity prices for recovered materials, which affect BB program revenues in any given year.

g. Municipal procurement and contract management processes. Municipalities contract out the majority of their services. The calibre of municipal procurement and contract management efforts varies across the Province and while municipalities are working to standardize and improve core competencies, it is an area still being improved upon.

h. Community priorities. In the same way that stewards prioritize issues like transportation efficiency over recyclability in designing their packaging, municipalities also consider other factors beyond cost reduction in designing and operating their programs. For example, decisions to protect local jobs can sometimes interfere with potential efficiencies that might be achieved through contracting out or rationalizing services.

i. Lack of core competency. In smaller municipalities, staff sometimes lacks the knowledge and resources to deliver high calibre services such as professional communications materials. This can negatively impact program performance and drive up system costs.

36. Although most Blue Box program costs are calculated per tonne, weight can be a very inaccurate way of comparing the impact of individual waste classes on Blue Box costs. Lighter and more complex materials, such as plastic and laminate packaging cost significantly more to collect and process than simple heavy waste such as newspapers.

37. Even the plastic packaging that existed in 2003 is now generally more expensive to handle. Plastic water bottles, for example, have been lightweighted, meaning that it takes more of bottles to yield a tonne of recovered plastic and the stream has been complicated with the introduction of multilaminates and new packaging such as thermoform PET clamshells.

38. In addition, some of the new materials, such as compostable plastics, or laminated paper products are very difficult and expensive to separate from other BB materials in existing material recycling facilities. If they are not successfully separated, they act as contaminants, dramatically reducing the value of the recovered materials from that facility or are lost as residue resulting in additional costs (i.e., paying a premium to collect and process as recyclable only to pay to dispose of it as residue).

39. Many stewards are aware that their packaging design choices are affecting the recyclability of their packaging and their representatives are aware that their member's packaging choices are having a major impact on Blue Box operating costs. This has been discussed at numerous meetings in my presence.

...

42. I have often heard Ministers of the Environment speak about the Blue Box program. I do not recall ever hearing any of them say that municipalities should receive less than 50% of actual Blue Box costs.

**Paragraphs from Andrew Campbell's Affidavit:**

27. Prior to the implementation of WDO's Datacall, AMO, WDO and Stewardship Ontario representatives did not have reliable data as to the costs of municipal Blue Box programs. It had never been necessary to collect this data separately. Municipalities had received some capital funding for purchasing and constructing capital assets to collect and process Blue Box materials, but there had never been a methodical effort to collect a full range of Blue Box costs.

...

30. This extrapolated number became the basis for Stewardship Ontario's (SO) original contribution of 31 million dollars. It was understood at MIPC that the 68 million dollar number was very approximate, given the source of the data, and that we would need a couple of years of experience with the Datacall which would include accurate data from all municipalities to obtain more accurate information.

31. The next year, the first year of the Datacall, the actual costs reported by municipalities were noticeably higher.

32. Stewards reacted with outrage that municipalities were "allowing" the cost to rise so much, when in fact what had happened was that we started to obtain more accurate data.

33. Stewards raised a huge fuss, complaining constantly that none of their other costs were rising at 20 percent a year and that municipalities must be wasteful and inefficient. We explained that every municipal Blue Box program is different and that it was going to take a couple of years for everyone to understand how and what to report, as individual financial reporting systems at municipalities had to change.

34. As a result of intense steward lobbying, the Minister was anxious to see stewards and municipalities do something to keep the costs from rising so quickly, even though much of the apparent rise was simply due to better data being gathered.

35. The Minister issued a letter in 2003 asking Waste Division Ontario to develop a Cost Containment Plan (CCP). Municipalities understood this to mean that the CCP would set out the steps to be taken by both stewards and municipalities, to control actual future costs, and to ensure that actual municipal costs were accurately calculated and reported.

...

37. Municipalities supported the development of the CCP and supported its approval by MIPC.

...

40. I did not understand the CCP to be a plan to change the 50/50 Blue Box cost split to increase the share paid by municipalities, nor do I believe that municipalities had this understanding. We

negotiated specific reductions in payment for specific years prior to 2007, but we never changed the basic principle of the equal cost split of actual costs.

...

47. No one told municipalities, during the CCP consultation, that the CCP or the cost bands would be used to move away from the 50/50 cost split with stewards.

...

49. Municipalities had already agreed that one fifth of the municipal funding, which came from stewards, would be distributed as grants for efficiency and effectiveness improvements through the E&E fund. This reduced the amount that all individual municipalities received for the ongoing operation of their existing BB programs, but it created a source of cash for capital improvement grants that we knew many municipalities would need to make step changes in their programs. E&E funding was directed to primary research into better and best practices, knowledge and technology improvements.

...

58. In principle, I agreed that municipalities should, where possible, operate their Blue Box program at "best practices". Municipalities strive to operate at best practices, where possible, in every other field, and there was no reason for them to be different in relation to Blue Box programs.

59. The general definition of "best practices", is to operate your program in a manner where you are measuring outcomes and comparing to and learning from others to ensure efficient and effective operations. Typically, the analysis is on a unit-based gross cost basis because municipalities are not in control of the revenue side of the equation, which is based on world economic factors. We can only control how we run our operation - i.e. the gross costs.

60. Municipalities and stewards both wanted better tools to identify municipal programs that needed to improve, and to assist and encourage such programs to improve. The CCP was supposed to provide these tools to municipalities by:

1. Clarifying Blue Box best practices, as benchmarks and targets (through the E&E Fund);
2. Using best practices to identify better and weaker performers among the individual municipal Blue Box programs,
3. Rewarding the better performers at the expense of the weaker performers, to give individual municipalities a financial incentive to improve (through the payout model), and
4. Assisting and encouraging weaker performers to improve (through the E&E Fund).
5. The CCP also assigned responsibilities to stewards and to the Ministry of the Environment. Generally, the Ministry did not fulfill the responsibilities assigned to it

under the CCP. Stewards did take some steps, but not nearly as much as municipalities did.

61. At the time we developed the CCP, municipalities had been operating BB programs at their own cost for over a decade and there was no consensus on what Blue Box Program “best practices” might be. Every municipality had developed their Blue Box program themselves, seeking to minimize the cost to the taxpayer and fit unique local circumstances. The only thing that were clear was that there was no single one size fits all and taxpayers wanted the lowest cost, most effective, program possible.

...

72. Virtually all municipalities have invested in BB program improvements since 2005, many through the WDO directed E&E Fund and CIF to move to the identified better and best practices to meet the objectives of the CCP. The CCP stated that “municipalities work, where possible, to operate municipal BB programs at best practices”.

...

88. Everyone knew that increasing waste diversion would increase the costs because the cheapest materials to collect and recycle, aluminum and newspaper in dense southern urban areas, were already being recycled at a high rate. Every other type of waste was always going to be more expensive to divert than those.

89. Payment containment is not the same as cost containment. Cost containment is about minimizing total costs actually incurred. Payment containment is about changing how total costs are split between stewards and municipalities.

90. I never understood the CCP to include any change in the 50/50 cost split. Stewards frequently claimed that the BBPP and the CCP imposed payment containment, but I don't agree.

..

97. To the best of my knowledge, no Minister of Environment ever told AMO that municipalities were no longer entitled to receive a full 50 percent from stewards of the net costs actually incurred to run municipal Blue Box programs.

98. On several occasions after the CCP was approved, I heard Ministers of the Environment speak about the Blue Box program. None of them ever said that the CCP had changed the 50/50 Blue Box cost split to increase the share paid by municipalities as compared to stewards. Rather, what we heard was consideration of increasing the stewards' obligation to 100%.

99. Ministers did express concern about the total cost of the Blue Box programs, and urged both municipalities and stewards to do what they could to keep the cost down. At the same time, Ministers also wanted municipalities to increase waste diversion, which often increases costs.



**Paragraphs from Robert Cook's Affidavit:**

33. I do not recall any rationale having been presented to the WDO Board for changing this cost split to increase the share of actual Blue Box program costs paid by municipalities as compared to stewards. I do not recall any analysis having been presented to the WDO Board about the consequences of such a change.

34. I do not recall any discussion at the WDO board about whether we had authority to change the equal 50/50 cost split between municipalities and stewards for municipal Blue Box programs.

35. I do not recall any vote by the WDO board that we should change this cost split to increase the share to be paid annually by municipalities as compared to stewards, or if so to what or on what grounds.

36. When the WDO board did vote to approve a stewards' obligation for a particular year that was less than 50% of verified actual municipal costs, OWMA understood that municipalities had voluntarily agreed to accept a lesser amount for that particular year, for various reasons. We did not believe that this was done with the intention of changing the principle of an equal cost split between stewards and municipalities.

...

44. I am not aware of any Minister of the Environment directing the WDO to change the 50/50 Blue Box cost split to *increase* the share paid by municipalities as compared to stewards. On the contrary, starting in 2008, the various Ministers directed WDO to develop a strategy to *decrease* the cost share paid by municipalities, by moving towards 100% steward responsibility for the wastes that stewards create. This concept is usually called "extended producer responsibility."

45. I heard many Ministers of the Environment speak about the Blue Box program after the CCP was approved. None of them ever said that the CCP had changed the 50/50 Blue Box cost split to *increase* the share paid by municipalities as compared to stewards.

46. Many Ministers expressed concern about the total cost of the Blue Box programs, and urged both municipalities and stewards to do what they could to keep the cost down. At the same time, Ministers also wanted municipalities to increase waste diversion, which often increases costs.

47. Best practices are a common management tool, and are widely used to target and benchmark continuous improvement.

48. In 2002, the Ministry of Municipal Affairs and Housing created an Ontario Centre for Municipal Best Practices (OCMBP). In May 2005, shortly after the CCP was approved, the OCMBP issued a report, Best Practice Identification Methodology Report: Identification of Municipal "Best Practices" For Waste Management - Solid Waste Diversion. This report gave a good definition of "best practices":

- “A Best Practice... is one which has demonstrably assisted at least one Ontario municipality to achieve a high level of measured performance in a service or activity, or to achieve a significant improvement in measured performance in a service or activity.

49. Best practices that work in one municipality may not be applicable or equally cost-beneficial in all other Ontario municipalities. Municipalities exhibit considerable variation in service-significant factors such as population size and density, climate and terrain, non-resident usage of services and infrastructure, industrial base, or age of settlement.

50. Best practices are benchmarks, not minimum performance standards, and they tend to change with time.

...

54. I am not aware of the Minister of the Environment formally approving or adopting, the KPMG Report, or the computer model it proposed.

...

64. I do not believe that the concepts of best practices and continuous improvement are accurately and fairly quantifiable within the context of the Blue Box program and at any rate are not appropriate to reduce steward obligations for 50% of actual costs incurred in municipal programs.

...

66. I am not aware of any municipality that is not concerned about efficiency in their Blue Box system. It is however fair to say that some municipalities have additional considerations that balance the functionality of their entire integrated waste management system.

67. The Blue Box program is not a static, unchanging system. Since its inception, it has evolved through many stages. Increased diversion targets; the implementation of Best Practices; the establishment of a deposit system for wine and spirits containers; the addition of new materials; will all have a lasting impact on the Blue Box system. Other changes to the waste management system (the green bin is an obvious example) have had an impact on the frequency of collection and the growth of single stream programs. To accommodate all these changes has required innovation and continuous improvement, including evolution in best practices.

...

70. Low cost does not always yield the preferred outcome relative to municipal services including the Blue Box program.

71. Throughout the history of the Blue Box program, including 2012, Ontario has in general had a very competitive marketplace for Blue Box material collection and processing contracts. Geographic isolation or a limited number of service providers does impact competitive marketplaces in some instances primarily in northern Ontario.

72. OWMA members aggressively compete for municipal Blue Box contracts and the private sector has maintained a healthy competitive environment through new entrants and expanded service areas and servicing interests.

73. Municipalities are very sensitive to long-term costs, revenues and service levels to residents. Servicing cost and efficiency are major factors in obtaining and keeping municipal Blue Box business.

74. Blue Box collection and processing is a service to municipal taxpayers that is first and foremost predicated on service levels and expectations. The cost of these services once established is limited in terms of how low they can be driven before service levels and expectations are compromised. The competitive marketplace leveraged through municipal tendering and RFPs for Blue Box services has provided continual cost efficiency to the Blue Box program for many years and has served municipalities and the province well.

75. Municipalities have also become much more knowledgeable and proficient about best practices for tendering contracts and properly overseeing those contracts. The OWMA has held many events to help build on this knowledge base.

76. The composition and density of printed paper and packaging materials in Ontario's Blue Box program have changed dramatically over the last two decades. These changes to printed paper and packaging materials have an impact on the entire recycling system. One of the main impacts is an increase the overall cost of the system.

77. Major trends in printed paper and packaging materials include more light weighting and lower density materials. There is substantially less glass and newspaper and more lightweight plastics. For printed paper and packaging collection, this increases collection costs as trucks reach their curbside capacity sooner with less overall weight and in some cases overly compacted materials. This adds unanticipated additional travel frequency between the MRF and the collection routes increasing costs.

78. These changes in composition and density and the emergence of 'composite' packaging materials, also increase printed paper and packaging processing costs as more handling is required at the MRF to process the same historic weight.

79. MRF designs changes have been necessary at a cost to accommodate an evolving mix of materials and in some cases, new packaging materials are not able to be recycled within the existing or modified MRF infrastructure. These materials can become 'residual' materials requiring disposal but at the same time incur an operating cost to the MRF with no corresponding increase in recycling tonnage or diversion.

80. The material revenues of printed paper and packaging has also decreased with an increasing percentage of low value materials like thermoform plastics and multi-layer packaging and more corrugated containers and a decrease in more valuable materials like aluminium.

81. Other impacts that have contributed to increased costs of the recycling system in Ontario include the cost of fuel and energy, inflation and major fluctuation in material markets.

82. Cost increases in the Blue Box system over time are not because municipal Blue Box programs are wasteful and inefficient.

### **Paragraphs from Denis Goulet's Affidavit:**

8. In Ontario, there is a very competitive open market for Blue Box waste processing. We aggressively compete for municipal waste processing business in the entire area of Ontario.

9. Cost and efficiency are major factors in obtaining and in keeping municipal Blue Box business. Municipalities are very sensitive to long-term costs. Municipalities also show strong interest in improving their recovery of Blue Box materials, in terms of minimizing residue and maximizing the value of the recovered materials. Contractors, such as Miller, are also incentivized/penalized under contract to minimize residue and maximize commodity value.

10. Certain municipal MRF's, such as that owned by the City of London, design facilities to act as regional MRF's and actively bid for material from other municipalities to generate revenue and lower per unit costs.

...

13. A MRF is a Material Recovery Facility, a factory set up to separate marketable materials from collected Blue Box materials. We use a combination of human sorters and specialized optical and mechanical equipment to rapidly and effectively separate varying grades of often similar materials. Accurate material separation is essential to maximize the value of the recovered materials. Flexibility is also important; operating adjustments are made as feedstock changes and commodities values change.

...

18. Blue Box processing is often described in terms of dollars per tonne.

19. Weight is easy to measure and easy to understand but it is not an accurate proxy for the processing costs of individual Blue Box wastes. Many of our processing costs are more strongly affected by waste volume, number and type of items and contamination levels, not by weight.

20. Old newspaper, for example, is heavy, easy to collect and process, and readily marketed. Old newspaper has been the economic bedrock of Blue Box programs.

21. Since 2005, easily processed and handled materials like ONP have decreased in relative tonnage to other more difficult to process packaging materials. It is much more expensive to process light-weight and complex material such as plastic packaging, such as clamshell packaging. Additionally, with the introduction of the LCBO glass deposit system in February 2007, glass tonnage has dropped by a third, further exacerbating the problem.

22. For example, lightweight packaging has greatly increased, which increases processing costs. For example, 5 years ago plastic water bottles were about twice as heavy as they are now. This means that we must handle, process and pay labour costs for dealing with nearly twice as many water bottles as we did in 2008 to recover 1 tonne of plastic.

23. The overall volume of the Blue Box waste stream, and the cost to manage it, has increased dramatically because of these new lightweight materials.

24. Blue Box processing contract prices are also affected by fuel and electricity prices, and domestic and international commodity price. They do not move in lockstep with the Consumer Price Index.

...

26. Waste recycling is a rapidly changing and fast-moving business. Successful competition in this business requires frequent innovation and adaptation.

...

29. Theoretically, centralized, larger and more modern MRF's would be more cost effective than Ontario's current MRFs on a per unit basis. However, to assume transporting to larger MRF's is more efficient may not be accurate.

...

31. You need the volume to drive the critical mass and transportation costs to deliver the material must be relatively low. Smaller, more labour intensive MRF's in small municipalities, such as Napanee, Brockville, Perth etc. often suit their purpose, and there is no economic reason to replace them. Capital costs may be written off and labour inexpensive. They may also collect in 5 stream and process in 5 stream which tends to drive the lowest residue levels.

**Paragraphs from Richard Findlay's Affidavit:**

87. In December, 2004, then Minister of the Environment, Leona Dombrowsky, approved a cost containment plan formally titled "Cost Containment Principles, Policies and Practices; Efficiency and Effectiveness Policies and Practices; Small Business Measures", dated July 12, 2004 and revised on January 31, 2005 (the "Cost Containment Plan"), subject to implementation within an accelerated timeframe. The Cost Containment Plan makes a number of references to the need for municipalities and stewards to implement best practices in containing the cost of recycling programs. It refers to the development of cost bands which will be "defined to reflect municipal diversity and 'reasonable costs' in 2006 and best practices in 2008." It states the following as an objective of the Blue Box Program Plan: "Municipal Blue Box recycling programs will, where possible, work to operate at best practices to minimize gross and net Blue Box program costs."

88. Although the Cost Containment Plan refers to the calculation of costsutilizing "best practices", it does not provide any detail concerning how MIPC or WDO would identify best practices or adjust reported costs to reflect best practices.

...

90. In a Memorandum of Agreement dated October 17, 2007 among WDO, SO, AMO and the City of Toronto, the parties recognized the Best Practice Cost Model (the "BPCM") developed by KPMG. The parties acknowledged that a best practice net system cost should be used for setting 2008 Blue Box stewards' fees. However, the parties agreed that the costs reported by Ontario municipalities in the Municipal Datacall were actually lower than the cost produced by the BPCM and therefore applied reported costs. The parties agreed to review the methodology for determining best practice net system cost for the purpose of setting 2009 stewards' fees and fees in subsequent years through MIPC.

...

92. Currently, the Cost Containment Plan requires the application of "best practices" but there is no specific definition of the meaning of this term in the Plan documents or agreements, nor any guidance as to how reported municipal costs are to be adjusted to reflect "best practices". The calculation of costs on the basis of "best practices" has been used only as one data point amongst others in the calculation of net system costs in the past two years.

...

94. The Minister of the Environment has not provided WDO with any instructions as to the meaning of principle 3 of the CCP, other than what is stated in the CCP itself.

95. There are many methods that could potentially be used to estimate or calculate "best practices costs" or "reasonable costs" of municipal Blue Box programs. The CCP does not set out a specific method to calculate "best practices costs" or "reasonable costs".

96. WDO has not adopted a specific method for calculating "best practices costs" or "reasonable costs".

97. The "best practice model" was used as a factor in determining the annual Stewards' Obligation under s. 25(5) in 2009 and 2010 as outlined below:

1. The MIPC negotiation in 2009 for the 2010 funding resulted in the obligation being based on the mid-point between the best practice model and the reported gross costs.

2. the minutes from the July 28, 2010 WDO Board meeting that included a motion specifying that the 2009 net Blue Box best practice system cost be determined using the Best Practices Cost Model as modified by MIPC and the variance policy proposed by MIPC.

98. WDO has no record of any Minister of the Environment having approved or defined any specific activities as constituting "best practices" for the purposes of the CCP.

99. I am not aware of any amendment to the BBPP that approved or adopted the 2007 KPMG report, entitled Operations Improvement: Blue Box Program Enhancement and Best Practices Assessment Project Report, volume 1 or volume 2 (KPMG report).



### **Paragraphs from Peter Hume's Affidavit:**

35. Not all best practices reduce costs. Any best practice that involves a capital investment, or the provision of material to residents for free, increases cost. (e.g. provision of larger or different recycling containers, construction of new facilities). Best Practices that increase the number of staff or resources required may increase costs as well. (Increased supervision/enforcement, increased processing sorts at the MRF). Increased promotion is guaranteed to increase effective participation.

36. We work to operate, wherever possible, at best practices to minimize gross and net Blue Box program costs. Co-collection is expected to save \$10,000,000 per year (Green Bin Savings are included in this number).

37. We were always willing to try to show this to stewards. When we agreed in some years to take less than true 50%, we did so because historically municipal governments work in a collaborative manner.

38. We hoped that we shared similar goals with stewards to build a long term relationship, to divert BB from landfill, and getting to 50%. We wanted to earn their respect. We wanted to show that our costs were legitimate and that we weren't padding or offloading costs unfairly.

39. In hindsight, we entered into these discussions with what may have been rose coloured glasses. And we really wanted our BB programs to work as well as possible and to keep BB materials out of garbage.

40. We kept trying to earn the 50%, but it did not get better. There was always a new barrier. There is no longer a collaboration here; it is just about stewards offloading costs onto municipal taxpayers. It appears to us that they cloak that goal in two things. They talk about sustainability and being good stewards, and they talk about efficiency. They drag up issues about regional MRFs. But really they just don't want to pay 50%. It has finally become clear to us that the stewards don't wish to have a real partnership with us. They are doing everything they can so that we never get to 50%. Duped may be too strong a word, but behind all the talk about shared goals, the only real goal is to pay as little as possible.

...

43. Ministers have many times restated stewards' obligation to pay half, i.e. an equal share, of municipal Blue Box "cost". The plain meaning of "cost" is the cost actually incurred by municipalities.

44. In 2007 and 2008, verified municipal costs fell squarely within the range of the so-called "best practices" estimates that resulted from the KPMG computer model. This showed that municipal BB programs were operating efficiently. Since that time, municipal BB programs have become more efficient, not less, although commodity revenues dropped after the financial crisis.

45. Since 2008, the Minister's instructions have been that stewards pay too little, not too much, of Blue Box costs. His letter to WDO of October 16, 2008 sought recommendations on how to move from 50% towards 100% steward funding of Blue Box programs:

9. Stewardship fees:

*Current steward fees for certain Blue Box wastes may be too low to encourage either increased waste diversion or the use of materials in product manufacturing or packaging that can be easily recycled. Recommend how the steward fee structure can be revised ....*

10. EPR funding:

The BBPP does not reflect full Extended Producer Responsibility (EPR) funding since *the WDA requires Blue Box stewards to fund 50% of municipal program costs*, with municipalities funding the rest. Recommend how to move the BBPP towards full EPR funding. [emphasis added]

46. In its April 2009 report, *Blue Box Program Plan Review Report and Recommendations*, WDO recommended that the Blue Box program should transition to 100% steward funding within 5 years. This is one feature of Bill 91, now before the Ontario Legislature.

47. Ever since, Stewardship Ontario has refused to pay the 50% of our actual costs that the WDA already requires, at a significant cost to the public and the municipal taxpayers. My letter of April 28, 2009, addressed to the Chair of Waste Diversion Ontario, accurately sets out the issues.

**Paragraphs from Maria Kelleher's Affidavit:**

13. Best practices generally mean practices that have been adopted by municipalities or other program operators that lead to reduced costs and/or increased efficiency.

14. Best practices vary by location; they are not the same for all municipal BB programs. As an example, practices that work well in rural areas may not work well in dense, urban settings and vice versa.

15. Not all best practices necessarily reduce costs; some may lead to achievement of other targets such as increased diversion

16. Net Ontario BB program costs incurred by municipalities have gone up since 2005. The major causes of the increase are:

- a. The changing mix of materials in the Blue Box over time, with addition of more light weight packaging (mostly light plastics and multi-layer packaging) which is more expensive to collect and process than traditional packaging that used to be in the Blue Box (cans, bottles, cereal boxes);
- b. A reduction in the amount of newsprint and other printed material in the Blue Box over time;
- c. Materials collected in the BB (Papers, metals, plastics, glass, etc.) are commodities which are traded on national and international markets. The revenues from these materials change over time based on supply and demand, economic factors and many trends in the economy, etc. BB revenues have changed over time, thereby increasing the net costs of the BB program. Some years revenues are high and other years they are low; as an example BB material revenues were very low for a number of months after the economic collapse of late 2008;
- d. Replacement of older BB collection and processing contracts with new contracts and prices that reflect the higher costs of managing the changing mix of BB materials and new collection and processing equipment.

### **Paragraphs from Andy Pollock's Affidavit:**

13. Municipalities were always a minority of the WDO board. The majority of the Board consisted of representatives of stewards. The stewards dominated WDO decision making, to the disadvantage of municipalities, especially in the early years.

...

18. I understood section 25 of the Waste Diversion Act was supposed to reflect a partnership between municipalities and stewards. Stewards would pay 50% of actual municipal BB costs, and everyone would cooperate to keep costs down. We always tried for that, with varying degrees of success.

19. When the BBPP was originally issued in February 2003, we lacked consistent province-wide data on the annual cost of municipal Blue Box programs. There was a great deal of work done to get accurate verified costs, how much municipalities actually spent on their blue box programs. This information had never been available before.

20. The actual costs (collected through a Datacall process, managed and verified by WDO staff) turned out to be quite a bit higher than our initial estimate, and they rose every year.

21. This caused considerable tension between municipalities and stewards. Stewards repeatedly suggested that it was our fault, and that municipalities were wasteful and inefficient. There was also a question about the accuracy of the early Datacall reports especially from a few municipalities. Stewards objected strongly to paying 50 percent of our reported costs.

22. Both municipalities and stewards wanted to slow down the rate of increase in actual blue box costs, and to make sure that the reported costs were accurate. We recognized that cost containment required efforts by both sides, and would equally benefit both sides. These were the purposes of the Cost Containment Plan (CCP) which came to the WDO Board for approval.

23. Municipalities supported the CCP. I thought the CCP was a fair plan because it would put the burden of reducing actual future costs equally on both sides, as well as on the Ministry of the Environment. Municipalities did not object to pursuing best practices where possible. We do it anyway.

...

27. Municipalities were not told that the CCP would change our right to have stewards pay 50% of actual BB costs, and I don't think it did. Municipalities did not agree to this by supporting the CCP. Municipalities were always opposed to that idea. See the October 13, 2004 letter from AMO to Dennis Darby, Chair of the Board of Directors of Stewardship Ontario.

28. I do not ever recall a discussion at the WDO board about changing the 50/50 cost split to increase the share of actual costs paid by municipalities as compared to stewards. I would not have supported this.

...

34. One of the things that the WDO board used to approve each year was the amount of the Steward Obligation to municipalities for the next year. No one ever explained why we were doing this, or what our legal authority was. At the time, I did not ask. There was a process in place, and I went along with it.

35. The amount of the Obligation always came to us as a recommendation from a committee of municipalities and stewards that had been set up under the Blue Box Program Plan (BBPP), known as the Municipal Industrial Program Committee (MIPC). I did not sit on MIPC, and I was not involved in its negotiations.

36. It was our understanding that it was MIPC's responsibility to negotiate each year how much the stewards would pay, the following year, towards the actual costs that municipalities had incurred to run the Blue Box program the year before. At the end of the negotiations, MIPC would recommend an amount for the stewards to pay for the following year.

37. This recommendation was always approved, without much discussion, by the WDO Board. We never really got into how the amount was selected, though we were aware that it was arrived at through difficult and prolonged negotiations at MIPC meetings. There were no rules for the negotiation that I know of.

...

39. At the time, I never questioned whether there was a valid legal basis for this negotiation or for the model or for MIPC or the WDO to determine the amount to be paid by stewards. To the best of my knowledge, municipalities never sought legal advice about the meaning or application of the WDA to Blue Box funding.

40. When the WDO board did vote to approve a stewards' obligation for a particular year that was less than 50% of verified actual municipal costs, I understood that municipalities had voluntarily agreed to accept a lesser amount for that particular year, for various reasons. We did not believe that this was done with the intention of changing the principle of an equal cost split between stewards and municipalities.

41. We made a fresh decision every year. Decisions for one particular year did not apply to later years.

42. I heard several Ministers of the Environment speak about the Blue Box program after the CCP was approved. I never heard any of them say that the 50/50 Blue Box cost split had changed to increase the share of actual costs paid by municipalities as compared to stewards. I never saw a Minister's letter saying that either.

43. Instead, in 2008, the Minister told WDO to move towards 100% "extended producer responsibility", i.e. to decrease the cost share paid by municipalities.

44. Municipalities worked hard to contain BB costs and improve effectiveness, while increasing waste diversion, all as the Minister of the Environment asked us to do.

45. Costs went up every year anyway. The main reason was the introduction of many new types of plastic food and beverage containers, which had limited end markets and increased the volume of material to be collected and sorted. There were also dramatic increases in fuel costs. There was also a decline in the value of some recovered material, particularly after the financial crisis in 2008. Because we had a three year rolling average, that trickled through until 2012.

46. Municipalities took their CCP obligations very seriously. Stewards and the MOE also had obligations under the CCP, many of which were not fulfilled.

47. Stewards should pay 50% of verified municipal BB program costs, this year and every year.

### **Paragraphs from Geoff Rathbone's Affidavit:**

23. The Toronto Blue Box program is one of the largest in North America and certainly the largest in Canada. Close to 1 million households served, with about half multi-family households. This makes the Toronto program unique and skews all of the numbers compared to all other Ontario municipalities. For example, the amount of recyclables available per household is less than in single family households.

24. Toronto is one of the few municipalities that sends almost all materials to transfer stations first. Most municipalities can send collection trucks directly to the MRFs. That is not practical in Toronto due to its unique traffic and density challenges. Suburban GTA municipalities are in the sweet spot: they have enough density without too much traffic. The Toronto BB program will necessarily cost more.

25. The Toronto BB program was a very good program. We had one of the most extensive lists of acceptable materials. We provided residents with enough capacity to accumulate the broad mix of materials, combined with efficiency by collecting recyclables every two weeks.

26. Our program was very effective, we diverted a huge amount of material.

27. The Toronto program was well run. I always looked for opportunities for greater efficiency, and pursued them, for example I contracted out collection in half the city to reduce collection costs. We also contracted out the MRF processing. We always used competitive free market bids, we did not just renew what was there.

28. Because of our scale, Toronto bids were also extremely competitive. We had a wide range of vendors interested, they had to sharpen their pencils.

29. In your opinion, was it operated using best practices? Yes, and we did this throughout our integrated waste system. For example, the first of its kind was our shift to picking up garbage only once every two weeks. This allowed us to collect recyclables the other week, which was efficient, and drove more people to separate their BB material and put it in the BB.

30. In addition, as we developed the list of WDO "best practices" which reward municipalities in the payout model, Toronto was already doing the majority of those "best practices".

31. I believe that, in general, Toronto's Blue Box system was efficient and provided a template for other municipalities.

32. Because we represent about 20% of the total province, our costs and results received a high amount of scrutiny from WDO. We were audited almost every year. We welcomed the scrutiny, we had nothing to hide. For example, we were brutally honest about distinguishing, as accurately as we could, residential from other sources of BB material. For example, schools, City Hall, etc. This made our overall cost per tonne look higher than perhaps it was.

33. Toronto worked hard to provide accurate Datacall tonnage and financial reports every year. We took it very seriously. But a lot of judgment goes into filing those reports, and reasonable people can differ. For example, allocating costs in a two sided collection truck: how much should be allocated to the BB program v. the garbage?

34. How do you know exactly what portion of the recyclables come from ICI v. residential sources? No matter how we tried to follow the WDO rules, it was not black and white. It's no surprise that auditors sometimes disagree with how municipalities have allocated BB costs and tonnage.

...

39. There was some consultation with municipalities when Stewardship Ontario (SO) and WDO were developing the Blue Box program plan (2002/2003). It was clear during this process that total actual costs were to be split 50/50. To the best of my knowledge, nothing in the BBPP changed the 50 /50 actual cost split that is in the WDA.

40. At the time the BBPP was developed, no one had reliable data as to the actual costs of municipal Blue Box programs. It took several years to get accurate information through the Datacall process. It's a constantly evolving process.

41. The Datacall was developed to collect actual cost and tonnage data to municipalities. The legislation provided no guidance as to what the rules were and the first thing that the parties had to determine was what were the eligible expenses. For example, what percentage, if any, of capital depreciation or the mayor's salary or administrative cost would be included?

42. The Effectiveness and Efficiency Fund (later the CIF) was created out of the perceived cost difference between efficient and inefficient blue box programs; see p. 16 of the BBPP. The fund was designed to assist municipalities to improve the efficiency and effectiveness of all municipal BB programs, especially the weaker ones. The intention was that total actual costs, through innovations funded by the E&EF, would be reduced over time.

43. SO was still paying for 50% of actual costs, but with a portion of that being diverted to this fund. I believe that municipalities, by accepting this approach, acknowledged that improvements could be made.

44. Toronto did apply for E&E /CIF funding, which was helpful. I believe that, in general, municipalities did get back, through grants, most of the money that was diverted to the E&E/ CIF. It was a means by which smaller municipalities could get funding for certain projects that would otherwise have been impossible, and which did help improve efficiency and effectiveness over time. We even paid for help to smaller municipalities so they could apply for grants.

45. The first year of the Datacall, the costs reported by municipalities were noticeably higher than the estimate in the BBPP, because the baseline information had been weak and not inclusive of all costs. As well, commodity prices fell dramatically and this affected the "revenue" component of the net cost formula. (The three year "rolling average" for revenue helps to buffer



against the volatility in the commodity prices market. MIPC recognized that this approach was fair.)

...

47. The Minister issued a letter in December 2003 asking Waste Division Ontario to develop a Cost Containment Plan (CCP). Municipalities understood that cost containment meant steps, to be taken by both stewards and municipalities, to control actual future costs, and to ensure that actual municipal costs were accurately calculated and reported. Not a change in the cost split.

...

49. What was the CCP about? How was it expected to contain future costs? As we examined individual municipal programs, we expected to find opportunities to improve a practice or policy. We would share that learning with other municipalities, who could learn from that. This way the overall system would gradually become more efficient and effective. But of course the more you divert, the more it costs stewards. It is a bit of a catch 22.

...

52. It was always in municipalities' interest to improve on efficiency and lower costs and municipalities agreed that reducing costs was good in general.

53. The definition of cost containment in paragraph 3.1, p 7 of the CCP does describe my understanding of what the CCP was about. It was about reducing future costs, not about changing the cost split.

...

55. If it had been our intention to change the cost split, we would have been much more explicit, and would not have used vague and confusing language. Municipalities would not have supported changing the principle of the equal 50/50 cost split of actual BB costs.

...

57. Cost bands were supposed to make it easier to benchmark municipal BB programs that were somewhat alike. It became clear though that it was really impossible to make apple to apple comparisons amongst municipalities. Every program has unique features, and it's a huge challenge to accurately capture the true costs of each and to understand why they are different. A lot comes down to the allocation question.

...

59. Is payment containment the same as cost containment? No. Cost containment is a joint goal: we both benefit from making programs more efficient. Payment containment is about one side paying less than the other.

...

61. Does the CCP contain any method to calculate a different cost split, other than 50%? Not that I am aware of.

62. Did the Minister of Environment ever approve any method to calculate a different cost split, other than an equal 50/50%? Not that I am aware of.

63. On several occasions after the CCP was approved, you heard Ministers of the Environment speak about the Blue Box program. Did you ever hear a Minister of Environment say that municipalities were no longer entitled to receive a full 50 percent from stewards of the net costs actually incurred to run municipal Blue Box programs? Never. Ever see a letter that said that? No.

64. Ministers did express concern about the total cost of the Blue Box programs, and urged both municipalities and stewards to do what they could to keep the future cost down. At the same time, Ministers also wanted municipalities to increase waste diversion, which often increases costs.

65. Do you now believe that the CCP changed the 50/50 cost split, i.e. whether each side should pay 50% of verified actual costs? No. Municipalities gave up some money in some subsequent annual negotiations for particular years, but we never changed the general principle. In particular, we never changed the principle for the stewards obligation in 2014.

66. BB costs have gone up a lot since the CCP was adopted, but that's not because of bad conduct by municipalities.

67. Since 2005, municipalities tried hard to comply with the CCP. Municipalities are always interested in containing costs and in improving towards best practices, and made a lot of changes to make their BB programs more efficient.

68. The main driver behind the increasing cost of the BB program since 2005 is the exponential change in the waste stream. It used to be maybe 60% old newspapers, which are cheap to collect and process and easy to sell. We could sell it for more than it cost us to process. Now the majority of BB material is plastic which is expensive to collect and process. Fibre is only 40 to 45%, and it costs us more to process than we can sell it for.

69. The plastic packaging we handle has changed. Ten years ago, we would get a tonne of plastic from about 35,000 plastic water bottles. Now it takes about 70,000 bottles to recover a tonne of plastic. Every one of those bottles has to be handled, and they are still working on making them thinner. Also there are more kinds of plastic than there used to be and they all have to be separated.

70. We need much more sophisticated and expensive equipment to handle all the new packaging

and complex ( eg laminated) materials. Fuel and other costs have also gone up. The costs of building and running an old style MRF on the K.PMG cost curve don't have any particular relevance to what it costs to build and operate an MRF today. Nor could the old style MRFs manage today's complex mixture of packaging.

71. It is much more expensive to collect the new packaging than it was to collect newspaper. They take a lot of room in a collection truck; among other things, they can't be compressed as much as garbage, because the pieces have to be separated at the MRF. We compress garbage about 5: 1 at the point of pickup; recyclables can only be compressed about 2: 1. Most of the cost of running a collection truck are driven by the number of hours and miles driven, not by the weight of the materials picked up.

72. There have been other changes too. For example, there are now fewer people per house. Also there have been cost of living changes, such as labour, fuel cost, electrical, etc.

73. Because of all these changes, Toronto found that our total tonnes of recyclables marketed stagnated, (despite the total number of pieces of BB material going up). We were working very hard to increase our participation and capture rates and accepting more materials, and costs were going up. We commissioned a report from Maria Kelleher to explain what was going on. Her 2010 Blue Bin report concluded that BB programs were going to continue to get more expensive because of these demographic and packaging changes.

...

75. Have stewards done anything comparable to comply with their obligations under the CCP? No. They have taken some tiny steps that help us, e.g. Walmart has changed some details of their pharmaceutical bottles. But on the whole, we have not seen stewards making packaging easier to recycle. On the contrary, there is a direct negative correlation between the packaging changes stewards have made since 2005 and BB costs. For example, moving Ritz crackers out of a boxboard container (easy to recycle) and into a plastic pouch (no recycling market, very challenging to sort at the MRF). This is also part of why recycled tonnes are stagnating.

76. "Best practices" is a pretty well understood business term, though it can mean different things in different contexts. It can mean a specific operation, eg baling before shipping, and it can mean policies, eg picking up garbage every two weeks. We originally thought it meant mostly operations, but the KPMG report focussed mostly on policies.

77. Best practices are recommended based on experience of similar operations. They used as a target or a benchmark, not a minimum standard. They don't necessarily apply in the same way to every program.

78. Have BB best practices changed since 2007? They are always evolving. Partly they have to evolve because the waste stream is evolving. The technology also changes, eg optical sorting.

79. Do best practices always reduce costs? No, they can be about efficiency and/or about effectiveness, which can increase cost while increasing diversion.

...

85. There were members of MIPC who felt that there should be no reduction in the amount of money that SO had to pay and that it was 50% of what was actually incurred by municipalities. However, I felt that it was more practical to agree to some payment containment, in the early years. I was willing to make concessions in some annual negotiations to make the whole arrangement work. I tried to make the best deal that we could at the table.

...

87. Each of the annual negotiations only affected the obligation for that year. We did not give up the right to a full 50% in future years.

88. I thought that the gap between actual costs and the theoretical "best practice" program cost would decrease with time, as municipalities implemented best practices, although actual costs would continue to rise.

**Paragraphs from Jo-Anne St. Godard's Affidavit:**

21. I always interpreted the funding provisions in the WDA as it related to Blue Box to mean equal 50 50 net systems cost split between municipalities and obliged stewards.

22. I do not recall any proposal to the WDO board that contemplated a different funding balance that would increase the share paid by municipalities or stewards.

23. I do not recall any discussion at the WDO board about whether we had authority to change the equal 50 50 net systems cost split between municipalities and stewards for municipal Blue Box programs. I am not presently aware of any such authority.

24. I do not recall any vote by the WDO board that we should change this cost split to increase the share to be paid annually by municipalities as compared to stewards, or if so to what or on what grounds.

...

40. I am not aware of any Minister of the Environment directing the WDO to change the 50/50 Blue Box cost split to increase the share of actual costs paid by municipalities as compared to stewards. On the contrary various Ministers directed WDO to develop a plan and make recommendations on how to increase steward's obligation beyond 50%.

41. I heard many Ministers of the Environment speak about the Blue Box program after the Cost Containment Plan (CCP) was approved. None of them ever said that the CCP had changed the 50/50 Blue Box cost split to *increase* the share paid by municipalities as compared to stewards.

42. Many Ministers expressed concern about the total cost of the Blue Box programs, and urged both municipalities and stewards to do what they could to keep the cost down. At the same time, Ministers also wanted municipalities to increase waste diversion, which often increases costs.

**Paragraphs from Jay Stanford's Affidavit:**

39. London staff are conditioned to look for key characteristics when reviewing potential 'best practices' in place in other cities. Some of the definitions we are comfortable with include:

a. The practice may be in place in one or more Ontario municipalities, in a form similar to that in the municipality or municipalities identified. However, the practice may not yet be universally implemented in all Ontario municipalities where its application could potentially improve measured performance in the service or activity. It is not a 'proven' best practice but it worth exploring further for applicability in London.

b. A practice which has verifiably contributed to service performance improvement in the case-study municipality may not be applicable or equally cost-beneficial in all other Ontario municipalities. Even within Ontario, municipalities exhibit considerable variation in service significant factors such as population size and density, climate and terrain, non-resident usage of services and infrastructure, industrial base, or age of settlement.

c. Best Practice Summary Reports are intended to be an efficient reference tool for municipal service providers to learn about and investigate alternative approaches to delivering efficient and effective services. Neither the Ontario Centre for Municipal Best Practices nor any Summary Report in any way establishes minimum performance standards for municipal services or prescribes service delivery approaches.

...

41. Best practices change with time and in keeping with other changes that impact our industry, such as technology, customer habits and changes in material composition.

42. Many best practices do not reduce costs. Some increase costs in the short term but reduce costs in the long run. For example, building a regional MRF in London resulted in increased costs in the short term due to increased capital costs, but has reduced overall long term processing costs.

43. Some best practices increase our costs in the short and long term. For example, providing new Blue Boxes to capture more materials or adding new materials to the Blue Box program increase costs as there are more materials to collect and process. Many of the newer materials being added to the BB have the highest costs to capture (e.g. lightweight plastics, polycoat containers).

...

46. Despite strenuous efforts at cost containment, our net BB program costs have gone up since 2005. The major causes of the increase in cost since then are:

a. Recycling Additional Materials

i. Since 2005 we have added a number of materials (e.g., cardboard cans; #3, #6, and #7 plastics, thermoform plastics; aerosol cans). All these materials are light weight containers which are expensive to collect and process. The cost to collect and process light weight containers is several times more expensive than paper products. On average the cost to process containers is about 4 to 5 times the cost to process paper products.

...

49. The E&E Fund provided funding to municipality to complete research (pilots studies) to learn how they could improve (i.e. lower) their E&E Factor (E&E factor = net cost per tonne divided by recovery rate). Funding was a portion (approx. 10%) of the stewardship funding obligation. The objective was to decrease programs costs while increasing recovery, and E&E grants were provided to support this objective. The E&E funds were successful as they evolved into the CIF program, which provided funding to implement program changes (that had been studied and piloted under E&E).

...

52. Why did municipalities support and pay for the CCP? The only explanation I can offer is that most municipal staff, like those in London, strive to deliver better services to our taxpayers for a reasonable investment. When a municipality is offered tools and techniques to help 'contain' cost we will gladly accept them. This helps us do our job, helps with our annual performance reviews, helps with public reporting through Committee and Council, and in conversations with the media.

53. We also believed that a process like this would highlight the impacts that steward materials were having on the Blue Box program and make them more aware of the consequences of their actions.

...

55. Did municipalities understand the CCP to be a change in your right to 50% of actual BB costs? No. Why would municipalities wish to accept less funding when the law states 50% of net costs. We accepted the E&E Fund and Continuous Improvement Fund as taking a portion of municipal funding for the right reason (e.g., increase efficiency). I have not seen a signed document that states we agree to receive less money on a permanent basis. I do know that negotiations take place each year; however municipalities have finally said enough is enough.

56. Is cost containment the same as payment containment? No, these are fundamentally different. Cost containment is purely a method to control costs. Initiatives are put in place to 'contain' costs from going up. It does not mean that cost will not go up. Also, cost containment is different from 'cost reduction.'

57. Payment containment suggests payments are going to be withheld. Payment is a fee paid for services delivered. The law states this amount to be 50%.

...

66. CIF funding has provided financial incentives to implement a variety of best practices, not limited to the WDO BP list, and we have taken advantage of this on many occasions.

67. We are in Cost Band #1 -Large Urban. In 2012, the group also included the cities of Hamilton (over 200,000 households) and Toronto (almost 1,000,000 households) as well as the regional municipalities of Halton (approximately 180,000 households), York (approximately 325,000 households) and Peel (approximately 410,000 households).

...

69. There are many special situations and exceptions. The WDO BP score does not reflect efficiency in all instances (or for all municipalities.) This has been pointed out to WDO.

...

71. Are best practice scores calculated by WDO the same as BB best practices as you understand them? No. We have seen little evidence that in fact the WDO BP are verifiable BP.



**Paragraphs from Derek Stephenson's Affidavit:**

21. From 2002 to 2009, SO retained CSR, and then StewardEdge, to design, write, implement and manage the Blue Box program that was to be, and was, created under the WDA. I was the primary representative for this work. Other CSR/ StewardEdge staff who worked for stewards on Blue Box matters included among others Gordon Day, Jane MacKenzie, Paul Flegg, Paul Gill, Liz Perry, Guy Perry, and Mustan Lalani.

22. Our team negotiated each year, on behalf of stewards, with municipalities, on many topics, including the total amount on an annual basis to be paid by stewards for Blue Box programs.

23. In 2009, the StewardEdge program management contract with SO was terminated, though I and several of our staff continued to provide some Blue Box program management functions and consulting services under contract to SO until 2012.

24. On behalf of SO, I was the overall coordinator and primary author of the 2003 Blue Box Program Plan (BBPP). My team also drafted subsequent amendments to the BBPP, including contributing to the development of the Cost Containment Plan.

25. At the initiation of the WDA the WDO did not have the resources or capacity to produce a program plan. It has been the practice in Ontario for stewards to prepare the waste diversion program plans requested by the Minister.

26. From 2003 until 2009, I had lead management responsibility for development of the annual rules under which SO requires stewards to report on the quantities of Blue Box wastes they supply into the Ontario market and to pay fees to SO each year. With SO's lawyer, I represented the stewards in negotiations with Waste Diversion Ontario and the Ministry of Environment to obtain their approval of these rules and fees, which were subsequently approved each year by the Minister of Environment of the day.

...

48. The WDA does not follow all the recommendations of the September 2000 OWDO report. However, it did adopt in, Section 25(5) of the WDA, the OWDO recommendation that industry and the municipalities should share, 50/50, the actual municipal costs of running Blue Box programs.

49. Some of our other recommendations, such as the Datacall and cost verification systems, the E&E Fund and the efficiency incentives in the payout model, were also adopted as part of the BBPP.

...

51. I'm not a lawyer, but I always understood that the Minister has power to make amendments to the BBPP, simply by writing a program letter or through the process of

approving our rules and annual fee calculations. If rules and procedures were approved by the SO Board of Directors, Waste Diversion Ontario and the Minister, then, as far as I was concerned, they became valid, enforceable, and effectively the law. Thus, once we determined the steward fees for a given obligation year, and had those fees approved by Waste Diversion Ontario and the Minister, as far as I was concerned the municipalities were no longer entitled to be paid any more than that amount for that year.

...

55. I was also not in support of allowing members of the Canadian Newspaper Association to provide advertising space to municipalities in lieu of paying fees when the costs of collecting and processing old newspapers significantly exceeds the market price for the recovered material. This was a straight political concession negotiated directly by the newspapers and was announced shortly after photos in the newspaper showing the Premier leaving a meeting with newspaper publishers and this concession was not supported by other stewards.

56. The in-kind concession doesn't directly benefit or hurt the packaging stewards. But it does hurt Ontario magazine and periodical publishers, who must pay substantial fees for collection of their printed papers, while newspapers and foreign magazines cannot be compelled to pay fees.

...

58. In the early years, from 2003 to 2007, we focused on scrutinizing and challenging the amounts reported by municipalities through the Datacall. Stewards pressed hard to ensure that only appropriate costs were reported through the Datacall. Municipalities that charged unreasonable amounts were challenged through the WDO verification process and through third party audits, to ensure that numbers reported to the Datacall were accurate and reasonably related to the service provided. They should not, for example, be stretched to include barely related items such as a share of the mayor's salary.

59. The verification process and audits of municipal returns to the Datacall were successful in identifying over-reporting by some municipalities. This embarrassed municipalities and reduced their confidence in the Datacall numbers reported by some of their colleagues and in addition they suffered a financial penalty as a result. By 2007, we had saved stewards millions of dollars by this strategy.

60. In 2004 and 2005, municipalities agreed to deduct \$10 million and \$14 million respectively from the reported Datacall net costs, as the Datacall numbers were not yet reliable. The parties agreed that these were temporary cuts as we worked through the kinks of setting up and operating the Datacall. We called the agreed reductions for those years "reasonable cost bands".

61. It took a few years for more accurate and reliable information to be obtained from municipal Blue Box programs. By 2007, the quality of municipal data had greatly improved, as a

result of repeated Datacalls, plus verification by Waste Diversion Ontario, and independent verification audits commissioned by WDO.

...

64. I interpreted the words “as a result of the program” to mean the municipal Blue Box costs that were reported to and verified by the WDO through the Datacall as outlined in the BBPP. We would not pay any costs for municipal programs that refused to provide their data. Especially in the early years, there were some smaller programs that refused to report through the Datacall, and as result SO did not make payments to these programs.

65. In the early years, WDO had very little staff of its own, just the executive director, Glenda Gies, and her assistant.

66. Because of its lack of internal resources, WDO relied heavily on SO.

67. A very large part of WDO funding came from SO. The fees required by statute were insufficient, and WDO got into financial trouble. In 2004 to about 2006, SO bailed them out and lent WDO enough money to pay its salaries and other operating costs.

68. Until 2012, stewards had the majority of seats on the WDO board.

69. Municipal representatives were generally anxious to show that they were reasonable and willing to compromise. Their negotiations were hampered by the lack of continuity, as municipal representatives to MPIC and to the WDO board had substantial turnover. They therefore tended not to challenge the way SO said things were to be done, or WDO. They did, however, emphasize in each annual negotiation that they believed that the WDA required stewards to pay 50% of their actual BB program costs and that any reduction was a temporary concession to ensure the continuation of the BBPP for the long term.

70. Cost containment and payment containment are different concepts and these were hotly debated in annual MIPC negotiations. Cost containment is about reducing actual future Blue Box costs, and depends on action by both stewards and municipalities. The BBPP was intended to provide incentives for both parties to reduce actual future costs:

- a) municipalities to become more efficient, and to reduce the costs they incurred to collect and process obligated wastes produced by stewards and
- b) stewards to choose to package their products in materials that were easier and cheaper to recycle.

71. Cost containment was an important element of Blue Box discussions from the very beginning. It is mentioned in the 1999 MOU and in the 2000 ODWO Report. The Minister of the Environment frequently called for cost containment, and directed WDO to add a Cost Containment Plan to the BBPP.

72. Payment containment is about negotiating annual costs lower than a 50/50 split, i.e. reducing the share paid by stewards below 50% of verified municipal reported costs, for the variety of reasons outlined above. Payment containment was frequently requested by stewards, but was not adopted in the 2000 ODWO Report or the BBPP.

73. Nothing in the CCP explicitly required payment containment, nor stated how any "payment containment" should be calculated.

74. I am not aware that any Minister of the Environment ever explicitly authorized or directed Blue Box payment containment in favour of stewards, nor how any payment containment should be calculated. On the contrary, starting in 2008, Ministers of the Environment began to call for a move towards extended producer responsibility, which could increase the share of Blue Box costs paid by stewards.

...

82. Municipalities continued to work with stewards on long term cost containment, that is to minimize actual future municipal costs, through measures such as using program efficiency as a distribution criteria for the MFAM, and for grants from the E&E fund (later the CIF) for municipalities to invest in improving program efficiencies. Both parties were concerned about rising costs.

83. One key step was the Cost Containment Plan (CCP), which was paid for through the E&E Fund (which are funds diverted from stewards payments that would otherwise have been made to municipalities), and supported by both stewards and municipalities. The CCP called for "best practices" to be used for municipal benchmarking, and for providing financial incentives for better performance by municipal programs.

...

87. In the call for proposals which ultimately resulted in the KPMG report, we instructed bidders that "the Minister of the Environment has determined that Stewards' obligation will be confined to 50% of Best Practice system costs by 2008." Municipalities did not challenge this statement, which became part of the KPMG Report.

88. The KPMG Report was effective in identifying higher cost municipal programs within similar groupings of municipal recycling programs. After 2007, we used the term "reasonable cost bands" to mean these groupings. The groupings were useful, although no two municipal Blue Box programs are alike. Almost every factor that affects costs is unique to each program, and apples to apples comparisons are only possible in general terms.

89. As part of the report, KPMG developed a computer model, based on the "cost band" concept, to calculate what a hypothetical "efficient" version of municipal Blue Box programs might cost. I am not aware of a Minister of Environment having expressly approved this computer model or any of its subsequent variations.

**Paragraphs from Jake Westerhof's Affidavit:**

11. In Ontario, there is a very competitive open market for Blue Box waste processing & marketing services. Private companies and public entities provide this service. The industry is very much in the 'public eye'. Canada Fibres competes for municipal materials recycling contracts throughout Ontario.

...

15. A MRF is a Material Recycling Facility - essentially a factory set up to separate and sort recyclable materials collected through the Blue Box process. Like most recyclers, Canada Fibres uses a combination of manual sorters and sophisticated mechanical equipment to rapidly and effectively separate varying grades of often similar materials. Accurate material separation is essential to maximize the value of the recovered materials.

...

18. On May 1, 2013, we opened a new facility at 124 Arrow Road, directly beside the exiting 122 Arrow Road plant. This new facility was not in operation in 2012. It added approximately 250,000 tpy of single stream processing capacity under Canada Fibres direct ownership and operation. Since opening it processes materials from the City of Toronto and Simcoe County.

19. Our modern, world-class MRFs are equipped to handle Blue Box recyclables of all kinds including paper, cardboard, plastics and metals. Each of our MRFs operates at a high standard and we continuously strive to improve them in every way practical.

...

28. The overall volume of the Blue Box waste stream, and the cost to manage it, has tended to increase because of new lightweight materials, changing material composition and increased contamination. As well, like virtually every industry, we have been affected by rising energy costs and fluctuations in the prices paid for recycled secondary resources. Increased diversion by adding additional packaging materials, such as but not limited to film and expanded polystyrene, increases both capital & operational costs.

29. We operate our MRFs as efficiently and as effectively as we can for obvious commercial reasons.

30. Waste recycling is a rapidly changing and fast-moving business. Successful competition in this business requires frequent innovation and adaptation.

31. The technology and economics of Ontario Blue Box MRFs have changed dramatically over the years. As described above, there have also been changes in the composition of the waste stream. Because of the pace of change it will not always be accurate to compare the efficiency or experiences of a municipality from 2005 to what it experienced in 2012.

# VINCENT SFERRAZZA

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## *Career Target:*

### **EXECUTIVE SENIOR MANAGEMENT – MUNICIPAL GOVERNMENT**

Dynamic and results-oriented Senior Management Professional with 20 years' experience in leadership, project management, policy enforcement, and strategy-building in the municipal and provincial solid waste management sector.

Offers a wealth of expertise in leading and managing all solid waste management functions, developing policies and related strategies, in addition to a record of success in implementing new policies and approaches to service delivery and effectively addressing conflicting customer and stakeholder demands. Benefits from a history of quality HR and personnel experience, including overseeing hiring panels and conducting disciplinary and termination functions.

Wields a holistic integrative approach to budget development along with significant experience in navigating the political, media, and public relations concerns surrounding environmental and waste management issues. Possesses a drive to lead a municipality in creatively and efficiently delivering on public service demands in a cost-effective manner, in combination with the diversity of experience to capitalize on executive mandates within a strict policy compliance framework.

## **AREAS OF EXPERTISE**

- Strategic Planning Strategies
- Public Policy-Building & Enforcement
- End-to-End Project Management
- Cost-Control & Process Efficiencies
- Municipal-Private-Industry Partnerships
- Multidisciplinary Project Alignment
- Political, Media, & Public Relations
- Operations Planning & Administration
- Performance Management Metrics
- Human Resources & Budget Planning

## **QUALIFICATIONS IN ACTION**

**ACTING GENERAL MANAGER – SOLID WASTE MANAGEMENT**

**2011-2012**

**DIRECTOR – POLICY & PLANNING – SOLID WASTE MANAGEMENT**

**2008-Present**

**City of Toronto, Toronto ON**

*Brought on board with Canada's largest municipality's Solid Waste Management department to assume a critical directorial mandate in policy and planning in support of strategies to divert 70% of the City's garbage across nine projects before taking on an acting role as General Manager for the division, with oversight of a critical core service review and cost control efforts in support of the City Manager's accountabilities in leading change management while upholding departmental mandates.*

## **SELECTED CONTRIBUTIONS & ACHIEVEMENTS – AS GENERAL MANAGER**

- Tapped as Acting General Manager of Solid Waste Management to **collaborate with KPMG consultants in conducting a review of departmental activities to identify core services**, define requirements, and supporting recommendations.
- **Navigated a sensitive political environment and negotiated cost-cutting compromises** while preserving popular services; working with the City Manager to refute cuts in revenue neutral and cost-offset areas at the committee level.
- **Prepared and presented a report for submission to City Council in support of contracting out solid waste collections for District 2**, developing a team in partnership with the Director of Collections including, Purchasing, Finance, HR, and Legal Resources.
- **Fielded committee and council-level debate and inquiry**, leveraging analytical and project management skills to assemble a team, delegate workflows, and compile information in order to develop a persuasive political argument.

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**QUALIFICATIONS IN ACTION CONTINUED...**


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**SELECTED CONTRIBUTIONS & ACHIEVEMENTS – AS GENERAL MANAGER**


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- Input cohesive messaging into the communications strategy and led crisis management in order to secure buy-in from council to launch the procurement, purchasing, and bidding process and fulfil divisional cost-cutting requirements.
- Led the training, coaching, and mentorship for a team of over 1,300 directing managers toward departmental objectives in policy and planning in ensuring the ongoing purpose and service levels of the Solid Waste Management department.
- Prepared and delivered the 2012 Operating and Capital Budgets focusing on a mandate to locate cost savings and find efficiencies in the departmental budget while maintaining quality service delivery and continuing with the departmental strategy, saving \$11M through external collections contracts and offsetting inflation.
- Partnered with Ernst & Young consultants to source operational efficiencies and improve collections by streamlining the routing system, and augmenting transitional services and eliminating redundancies with third party verification.

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**As DIRECTOR – POLICY PLANNING**


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- Leading the development of the City's Long Term Waste Management Strategy that will provide the framework for the Division's policy decisions for the next 30 to 50 years.
- Lead annually the development and presentation of the Solid Waste Management Operating and Capital Budgets, including setting the annual solid waste management rates for the city's residential and non-residential citizens and customers.
- Took the lead in directing a departmental strategy to reduce garbage in alignment with the Target 70 mandate to reach 70% solid waste diversion across nine projects including a 5¢ plastic bag drive and enhanced compost standards.
- Served as the lead in developing a new compost industry standard for Ontario, networking with key provincial and municipal government, private sector, and NGO stakeholders to ensure a successful rollout for 2012.
- Managed planning for a mixed waste processing facility including the recruitment & oversight of third party consultancy for the development and release of an RFP to solicit external vendor interest in building and operating a new facility.
- Oversaw the implementation and review of the Waste Diversion Act, representing the City of Toronto on the Waste Diversion Ontario Blue Box Program Plan in municipal-industry committees and related stakeholder consultations.
- Provided staff coordination and technical support across various committees and working groups in 3Rs, Residual Waste Working Group, Integrated Waste Stakeholders Working Group, Executive Environment, and Policy Coordinating Teams.
- Developed a strong policy and planning team that provided effective leadership and support to operating divisions and strategic support to council, while proactively promoting collaboration and innovation in a goal-oriented environment.
- Re-examined strategies to reduce and divert in-store packaging and sought council approval for the implementation of a strategy for hot drink cups and food containers.
- Devised and developed policies and by-laws to require multi-residential properties to provide all solid waste management services provided by the City and establish a series of policies to address involving the utility billing system.
- Undertook and completed an organizational restructuring of the Policy and Planning Unit, which created a new section, reassigning staff to more suitable positions reflecting the Unit's new responsibilities for utility billing and revenue planning.
- Prepared, reviewed and coordinated all Solid Waste Management staff reports to Committees and City Council.

**HALTON-PEEL DISTRICT MANAGER – CENTRAL REGION – OPERATIONS DIVISION**

**2007-2008**

**HAMILTON DISTRICT MANAGER – WEST CENTRAL REGION – OPERATIONS DIVISION**

**2007**

**SUPERVISOR – NON-HAZARDOUS WASTE – WASTE MANAGEMENT POLICY BRANCH**

**2001-2007**

*Retained by the provincial ministry charged with the preservation and protection of the environment in a supervisory role in waste management policy-building, before achieving promotion into a district management role with oversight for the city of Hamilton in the West Central Region and ultimately taking charge of the Operations Division for the Halton-Peel District*

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**QUALIFICATIONS IN ACTION CONTINUED...**

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**As DISTRICT MANAGER**

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- **Developed and coordinated the district's annual strategic plan to reduce air and land emissions**, including compliance inspections, industry abatement programs, and communication and outreach programs.
- **Cultivated partnerships with numerous diverse stakeholders** including federal, provincial, and municipal governments, private, commercial, and industry senior management to present, defend, and promote environmental legislation.
- **Negotiated with industry senior representatives to develop comprehensive and innovative abatement plans to reduce air emissions and improve community relations** and represented the Ministry at public forums and internal committees.
- **Authorized the issuance of legal compliance and enforcement instruments and fielded media responses** within a highly contentious and sensitive political environment and provided immediate management in environmental emergencies.
- **Managed supervisory and union staff of 15** within Collective Agreements, Ontario Public Service legislation, policies, and practices and rendered human resources decisions and effective recommendations in staffing and terminations.

**As SUPERVISOR**

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- **Implemented the Waste Diversion Act** involving the establishment of Waste Diversion Ontario, preparing the Minister's waste diversion program requests for blue box material, municipal hazardous, special, electrical and electronic waste.
- **Served as first point-of-contact for Waste Diversion Ontario and Stewardship Ontario**, providing technical, operational, and policy advice and expertise to ensure legislative and policy compliance.
- **Assisted Stewardship Ontario in the implementation of the Blue Box program plan** by providing legislative and operational advice and recommendations and participating on various committees.
- **Appointed Project Supervisor**, establishing an agreement between the Minister and United States Senators to end the shipment of municipal waste to Michigan.
- **Provided essential strategic and technical advice** to Ministers, Deputy Ministers and Assistant Deputy Ministers.
- **Composed and co-ordinated highly sensitive documents**, such as cabinet submissions, briefing notes, house notes and speeches.

*Supervisor – Waste Program Planning – Waste Management (1998-2001) with the Regional Municipality of Peel*

*Waste Management Analyst (1994-1997) with the Regional Municipality of Hamilton-Wentworth*

*Project Coordinator, Chief Administrative Office (1992-1994) with the Corporation of the City of Hamilton.*

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**EDUCATION & TRAINING**

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**MASTER OF PUBLIC ADMINISTRATION, 1992**  
University of Western Ontario, London ON

**BACHELOR OF ARTS (HONOURS), 1990**  
University of Western Ontario, London ON

**Certificate in Environmental Management and Auditing, 1996**  
University of Toronto, Toronto ON