

Pickering's Agriculture Preserve Easements: A Political History and Commentary

A Report for the Green Door Alliance Inc. April 2004

Introduction

An analysis of the historical context—the when, who, why and how we ended up with an 8000 acre Agricultural Preserve and a Growth Management Study that aims to urbanize it—may help explain the alienation of those concerned citizens who have followed this conservation issue over the years.

Historical Context

In the early 70s under the Economics Minister, John White, the Province initiated a program of land banking speculative land, so that price increases accrued to the province (the people) rather than private speculators. Large tracts of land were acquired e.g. at Nanticoke, Whitby, Prescott, etc.

By agreement with the federal government in 1972, for purposes of building and protecting lands for a large international airport, Canada expropriated 18,600 acres of Pickering, Markham and Uxbridge. Concurrently Ontario set out to acquire (purchase and expropriate) 25,000 acres south of the federal property, for its land bank. This new city, known as Cedarwood, was to accommodate 250,000 people. It stretched across Pickering from Ajax to Scarborough and Markham.

Both expropriations were bitterly opposed. A citizens' group, People or Planes (POP) arose. Pop claimed that a second airport wasn't needed and if it was, it should not be built on Class 1 foodland. An appeal to the Ontario Ombudsman, Arthur Maloney, resulted in his writing a scathing report on the coercion and dishonest conduct of provincial land buyers. Tragically Maloney died before his report was acknowledged by Cabinet. A newly appointed, government friendly Ombudsman trashed the Maloney report.

Meanwhile (1974) the federal government, in response to POP, held a public enquiry to determine “*if there was any new evidence not in the minds of the government when it announced the intent to expropriate.*”

Millions of dollars later the Gibson Commission duly reported that there was no new evidence. Expropriation was confirmed.

POP continued to demonstrate, research and lobby. POP claimed correctly that the federal traffic forecasts were nonsense—there would not possibly be 64 million passengers flying out of Toronto by year 2000. Forecast noise at Malton,

being the excuse for expropriating vast lands at Pickering, was also revealed to be in error due to exaggeration of the problem and the ignoring of the US Federal Aviation quiet engine program. POP took its case to the Premier and the Resources Development Committee of Cabinet. With the support of loyal Tories such as Bill and Roy McMurtry, Agriculture Minister Bill Newman and PC stalwart Clark Muirhead, POP was heard.

Bill Davis was convinced that the federal plan was seriously flawed—a second Toronto airport would be another white elephant like Mirabel and damage Ontario's economy while costing taxpayers many billions. He called up federal Minister Jean Marchant and cancelled the accord.

At the same time Premier Bill Davis announced that Cedarwood was too large—that a new city of 75,000 to 90,000 called Seaton would eventually be built on lands east of West Duffins Creek. The provincial lands west of Duffins Creek and east of the Rouge River would be a greenbelt separating Toronto from Durham. These lands have been in the public domain since the early 70s.

The Rae government in 1985 declared that these lands would be an Agricultural Preserve forever, but being lukewarm on private ownership left management with the Ontario Realty Corporation (ORC). Part of the land was donated to the Rouge Park. Part became Cornell. POP continued to lobby for private stewardship—selling the land back to private owners but conserving it by registering conservation easements on the land titles.

I think it can be concluded that ORC were inept landlords. They did not encourage farm stewardship or community interest; farm dwellings were often rented separate from the land. Maintenance was minimal, demolitions frequent and leases were for short periods.

It should also be acknowledged that most farmers did not protest the expropriation. They took their money—a *can't beat city hall* reaction. Many Mennonite farmers believed that protest was incompatible with their religious beliefs.

In 1995 the Harris government, being philosophically opposed to public ownership and wanting to reduce the provincial debt, ordered ORC to sell the land, forthwith. The Durham Region Official Plan designated the Agriculture Preserve as 'Permanent Agriculture'. The minimum lot size within this designation is 100 acres. ORC was required to provide the Region with a 'lotting plan' that maximized lot size but allowed small holdings which had existed as lots of record.

The Green Door Alliance Inc. picked up the torch from POP. During the 1990s, foodland conservation had become an important issue. The American

Farmland Trust was actively protecting land by purchase and with easements. These became known as *conservation easements*. The movement spread to Canada. Ontario passed its Conservation Lands Act. Environmental groups, e.g. the Federation of Ontario Naturalists and the Sierra Club persuaded Ottawa to recognize the donation of ecologically sensitive land or an interest in land (easement) as charitable gifts within the Income Tax Act. Ontario, in a bid to promote conservation of the Niagara tender fruitland, passed legislation allowing the government to compensate owners for loss of development potential if they registered conservation easements on their farms. Land Trusts popped up all over Canada. Thousands of acres were protected by easements. The Green Door Alliance (GDA) was part of this land conservation movement.

The GDA proposed to Durham Region Council that as a condition for approval of the 'lotting plan', the Region require the vendor, Ontario Realty Corporation to register conservation easements on all farms before they were sold. The Region agreed, arguing that the lands were zoned 'permanent agriculture' and the easements would insure that it was permanent. Pickering Regional Councilors—Brenner, Johnson and Dickerson supported the easements. Mayor Arthurs and a prominent Pickering developer and his lobbyist were opposed.

Mayor Arthurs realizing that he could not stop the resolution, proposed an amendment designating the Town of Pickering as holders/enforcers of the easements. It passed. The easements, which removed development potential, allowed the land to be sold at farmland prices (\$2,500 to \$4,000 per acre). The marketing was unrealistically hurried, providing little time for tenants to arrange independent private bank or Farm Credit Corp. mortgages.

However the developers/speculators who never accepted the easement principle were there, offering short-term mortgage money. The prices were so low it was no gamble. The CN Tower loomed large on the western horizon. They reasoned that with a friendly Pickering Council and Mayor the easements could be lifted; they assumed that the new farm owners would welcome windfall gains for little or no investment and the developers would win big, owning developable land worth an estimated \$100,000 to \$150,000 per acre.

The Growth Management Study.

When the Harris Government agreed to swap Seaton land for lands on the Oak Ridges Moraine and appointed the North Pickering Land Exchange Review Panel, Pickering Council reacted negatively—with some justification because their planning authority was being ignored. Ex-Toronto mayor and federal Minister, David Crombie was appointed to chair the panel to set guidelines for

the land swap. His recommendations included retention of the Agriculture Preserve.

Thus the Growth Management Study—an attempted by Pickering to end run around the provincial initiative—provided an opportunity to review the Agriculture Preserve easements and make a gesture of goodwill toward their friendly developers.

The developers (mortgage holders), cheered on by the new owners and some of the Council (Mayor Arthurs, and Councilors Brenner and Ryan), helped organize and finance the new farm owners in a protest— “Crombie Go Home” signs, t-shirts, hand bills, lawyers—all very professional but hardly grassroots.

This protest was to remove the easements on lands recently owned by the public and sold at farm prices to tenants who the government hoped would be good stewards of the land and welcome ownership and the opportunity and right to farm in perpetuity. Not so. The new farmer-owners arrived on hundred thousand dollar tractors, demanding the right to speculate—not to farm.

All that the Crombie report did was confirm the reality that existed since Bill Davis declared these lands a greenbelt in 1975 and Pickering and the Region included the lands within their Permanent Agriculture Zone and later required the easements. The province even issued a Minister’s Zoning Order to further enforce the permanent agriculture status.

The two developers were not impressed. Free enterprise and the profit motive is alive and well in Pickering. Council was lobbied to sponsor a “Growth Management Study” funded by the two developers with \$760,000 for advocacy consultants, and many more thousands for spin doctors, lawyers, political donations and advertising. Great gamblers’ odds—a million invested for the ultimate possible prize of hundreds of millions.

The Growth Management Study proceeded through stages: drafting the terms of reference, appointing compliant groups to advisory panels, an options report pretending public input on choices but finally concluding that the Agriculture Preserve as well as most of Seaton be developed.

Many public-spirited, intelligent residents refused to participate. Others saw their input ignored. The consultants analysis is seriously flawed and biased (see Brian Buckles reports and comments)¹

The Growth Management Study started as a conspiracy to enrich a couple of developers and has continued under developer patronage. Its conclusions are

¹ www.greendooralliance.ca

without public merit. Enriching two speculators and a few new farm owners is hardly reason to forsake the public trust established over 28 years: that Toronto is to have a greenbelt between it and rural Durham.

This is not just a local issue. It is a case history of past land-use planning in Ontario and the role developer/speculators have played. The future is encouraging. Pickering Council does not unanimously support development of the Agriculture Preserve. Supporting conservation are:

- The NDP who named these lands an **Agriculture Preserve**,
- The Conservatives who agreed to the easements and an Agriculture Preserve ‘in perpetuity’, at significant cost to the Ontario Treasury,
- The recent Ontario Liberal Party and Government whose policy statement requires the Agriculture Preserve be conserved for farming *forever*, and Minister John Gerretson’s recent confirmation of this position,
- The Durham Region Official Plan designating these lands as permanent agriculture, and the Regions condition that easement be on title ‘in perpetuity’
- Regional Director of Planning, Nestor Chornobay who reported: *I believe the Phase 2 selection of option 3 is tainted, biased, and seriously flawed* and,
- Over 20 regional and provincial environmental/conservation groups²

Need a Vision

Our municipal leadership needs a vision for near-urban farming in the future. Present cash crop farming of corn and soya beans in the hope that development is possible so the land can grow houses and millionaires is not what Premiers Davis, Rae, Harris, McGuinty and the people of Toronto and Ontario support.

The Agriculture Preserve can be a viable farm community, a GTA amenity, a buffer against non-sustainable sprawl—small farms catering to direct farmer-to-consumer sales of organic produce, meat, fruit, vegetables, u-picks, a farmers’ market. This is the future for a mature, growing, sustainable economy that will meet the environmental imperatives of the 21st century.

² www.rougeduffins.ca

Conclusion

The agriculture Preserve must be conserved as part of the Province's green space plan. Durham Region has led foodland conservation—the first municipality to create a *permanent agriculture* zoning classification and the first to use conservation easements as a land use planning tool. To allow a developer-inspired conspiracy to undo this regional, progressive, conservation initiative is unthinkable.

I have one other concern: The developers who own the mortgages effectively own the land. A change in land use from agriculture to urban would bestow millions of profit on these two developers and the previous tenants.

One, the Cough group and their lobbyist, are viewed as friendly supporters by many members of Council. It is gracious to help your friends. But in this case support for Coughs would be perceived as a conflict of interest.

A recent application by Coughs to service Deer Creek lands with a trunk sewer received Regional Council support.

15 Councilors supported the Coughs' application.

11 Councilors had received donations from Coughs.

4 supported Coughs who did not receive donations.

8 Councilors who voted against the Coughs proposal had not received donations from Coughs.

I am not challenging the integrity of any Member of Council. I am sure they are all honorable public-spirited persons working in the public interest. They should not let themselves be perceived otherwise.

But we have witnessed intense developer lobbying, lubricated by generous campaign financing, produce a Growth Management Study that advocates that Pickering's Agriculture Preserve should be urbanized. But the citizens saw it differently—they thought the land was an agriculture preserve forever,

Accepting money from developers and or their lawyers, consultants, sub-contractors etc., doing business with the municipality, creates a clear conflict of interest. The Municipal Act must disallow such perceived conflicts.