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November 15, 2023

VIA EMAIL

Provincial Land Use Plans Branch
13th Flr, 777 Bay St
Toronto, ON
M7A 2J3

To Whom It May Concern,

Re: ERO# 019-7739 – Comments on Proposed *Greenbelt Statute Law Amendment Act, 2023*

We are counsel to Minotar Holdings Inc. ("**Minotar**"), the owner of property referred to as "Site 11" in the Auditor General of Ontario's Special Report on Changes to the Greenbelt, and as the "Minotar" property in the August 30, 2023 report of the Ontario Integrity Commissioner.

We write to request amendments to Bill 136. In particular, we request that Bill 136 be revised to exclude provisions purporting to undo a settlement agreement between the Province and Minotar. The Province sought the settlement so as to conclude litigation surrounding a prior Greenbelt mapping error and for which the Province had no legitimate defence.

Background

In 2017, Minotar initiated a civil legal action against the Province for erroneously including the Minotar property in the Greenbelt Natural Heritage System in 2005, and for the Province's subsequent and ongoing refusal to correct its error (the "**Litigation**"). The Minotar property is comprised of table land devoid of any Natural Heritage Features.

Throughout the Litigation and in the years preceding it, the Province failed to provide a satisfactory explanation for the initial inclusion of the Minotar property in the Greenbelt. The best evidence was that the inclusion of the Minotar property was the result of a mapping mistake or “inadvertent error”. The evidence also showed that Ministry of Municipal Affairs staff had proposed removing the majority of the Minotar property from the Greenbelt during the 10 year review process beginning in 2015, but that political interference caused staff to change course.

A trial of the Action had been set for May 2023. Minotar had filed extensive expert reports on the environmental and land use issues related to its property and why it did not belong in the Greenbelt. The Province filed no expert evidence.

The Province proposes to remedy a historical error

In early November 2022, the Province approached Minotar with an offer to settle the Litigation. The Province and Minotar thereafter entered into Minutes of Settlement wherein the Province committed to remove the Minotar property from the Greenbelt in return for Minotar agreeing to a dismissal of the Litigation without costs to the Province (the “**Contract**”).

The Province then passed a regulation removing the Minotar property from the Greenbelt, along with 14 others. The Minotar property was included amongst this suite of 15 properties merely as a convenience to the Province. Minotar proceeded to comply with the Contract by obtaining a without costs dismissal of the Litigation.

The Reports of the Auditor General and the Integrity Commissioner

Neither the Minotar property nor Minotar have any connection to any issues or concerns raised in the reports from the Auditor General and Integrity Commissioner. In fact, both reports specifically identify Minotar’s 37-acre property as unique amongst the 15 sites removed from the Greenbelt by the Province on December 14, 2022.

Both reports also note that the Minotar property was the only property identified for removal by the Greenbelt Project Team, and the only property about which the Province has detailed environmental information. The Auditor General specifically noted that the Minotar property was selected for removal “because it had already been assessed in

detail...in relation to a litigation matter.” The Integrity Commissioner described the property as “entirely unique”. Of note, more than 99% of the Minotar property was purchased more than 20 years ago, before the Greenbelt was introduced.

Concerns with Bill 136

Bill 136 expressly provides that the Contract is terminated, even though Minotar has performed its obligations under the Contract. Further, the Bill purports to remove any remedy which Minotar would otherwise have. However, the *Constitution Act* does not allow the legislature to oust the legitimate role of the courts and the Bill leaves open an ostensible path to further litigation via judicial review.

The Province has admitted that it “screwed up” and it will “do better”, and Bill 136 has been presented as the remedy to the screw up. However, with respect to the Minotar property, Bill 136 only compounds a screw up (or “inadvertent error”) of a prior government, which the Province corrected when it removed the Minotar lands from the Greenbelt.

Request for Changes to Bill 136

We ask that Bill 136 be amended to exclude the Minotar property from the *Greenbelt Act, 2005* and to remove entirely proposed sections that reference Minotar and the Superior Court of Justice proceeding commenced at Newmarket and identified as Court File number CV-17-131956-00 all in accordance with Appendix A to this letter.

Yours truly,



Jonathan C. Lissus

JCL

cc: Paul Fruitman, *Lax O'Sullivan Lissus Gottlieb*
Patrick Wodhams, *Lax O'Sullivan Lissus Gottlieb*

APPENDIX A

Bill 136 amendments to remedy errors on Minotar lands.

SCHEDULE 2 GREENBELT ACT, 2005

Section 2(1)3 which repeals and replaces section 2 of the *Greenbelt Act, 2005* should be amended to exclude the Minotar lands from the Greenbelt designation by making the amendments shown below:

3. The area of land designated as Parts 1 to 36, both inclusive, on a plan entitled “Plan of the Boundary of the Protected Countryside” dated February 23, 2005 and filed on that date with the Office of the Surveyor General of Ontario, the area of land designated as Parts 1 to 5, both inclusive, on a plan entitled “Plan of the Boundary of the 2017 Protected Countryside Additions” dated May 4, 2017 and filed on that date with the Office of the Surveyor General of Ontario and the area of land designated as Part 1 on a plan entitled “Plan of the Boundary of the 2022 Protected Countryside Additions” dated December 12, 2022 and filed on that date with the Office of the Surveyor General of Ontario, but not the area of land designated as Parts 1 to 34, both inclusive, on a plan entitled “Plan of the Boundary of the 2017 Protected Countryside Removals” dated May 4, 2017 and filed on that date with the Office of the Surveyor General of Ontario or the area of land designated as Part 9 on the plan entitled “Plan of Boundary of the 2022 Protected Countryside Removals” dated December 12, 2022 and filed on that date with the Office of the Surveyor General of Ontario in the Ministry of Natural Resources.

Section 3 which amends the *Greenbelt Act, 2005* to add section 14 as a new section should be amended to exclude the Minotar lands from the Greenbelt designation by making the amendments shown below:

14.1 The Greenbelt Plan is deemed to provide that, (a) the lands designated as Parts 1 to 8, both inclusive and 10 to 20, both inclusive, on a plan entitled “Plan of the Boundary of the 2022 Protected Countryside Removals” dated December 12, 2022 and filed on that date with the Office of the Surveyor General of Ontario are designated as Protected Countryside;

Section 4 which amends the *Greenbelt Act, 2005* by repealing and replacing Section 19 of the *Act* should be amended to exclude the Minotar Litigation from the *Act* by deleting sections 19(1)(v) and (vi) and 19.1.