

Long-Term Care COVID-19 Commission Meeting

Deputy Minister Marie-Lison Fougère
on Tuesday, February 9, 2021



77 King Street West, Suite 2020
Toronto, Ontario M5K 1A1

neesonsreporting.com | 416.413.7755

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MEETING OF THE LONG-TERM CARE COVID-19 COMMISSION

--- Held via Zoom Videoconferencing, with all
participants attending remotely, on the 9th day of
February, 2021, 11:00 a.m. to 12:53 p.m.

1 BEFORE:

2

3 The Honourable Frank N. Marrocco, Lead Commissioner

4 Angela Coke, Commissioner

5 Dr. Jack Kitts, Commissioner

6

7 PRESENTERS:

8

9 Marie-Lison Fougère, Deputy Minister, Ministry of

10 Children Community Social Services/Office of

11 Women's Issues;

12

13

14 PARTICIPANTS:

15

16 Alison Drummond, Assistant Deputy Minister,

17 Long-Term Care Commission Secretariat;

18 Derek Lett, Policy Director, Long-Term Care

19 Commission Secretariat;

20 Dawn Palin Rokosh, Director, Operations, Long-Term

21 Care Commission Secretariat;

22 Jessica Franklin, Policy Lead, Long-Term Care

23 Commission Secretariat;

24 Alain Daoust, Team Lead, Long-Term Care Commission

25 Secretariat;

1 Adriana Diaz Choconta, Senior Policy Analyst,
2 Long-Term Care Commission Secretariat;
3 Rose Bianchini, Senior Policy Analyst, Long-Term
4 Care Commission Secretariat;
5 Angela Walwyn, Senior Policy Analyst, Long-Term
6 Care Commission Secretariat;
7 John Callaghan, Counsel, Gowling WLG;
8 Lynn Mahoney, Counsel, Gowling WLG;
9 Jennifer King, Counsel, Gowling WLG;
10 Michael Finley, Counsel, Gowling WLG;
11 Patricia Brooks, Counsel, Gowling WLG;
12 Ann Christian-Brown, Counsel, Ministry of the
13 Attorney General/Crown Law Office - Civil;
14 Michele Valentini, Counsel, Ministry of the
15 Attorney General/Crown Law Office - Civil;
16 Kristin Smith, Counsel, Ministry of the Attorney
17 General - Health and Long Term Care Branch;
18 Amy Leamen, Counsel, Ministry of the Attorney
19 General - Health and Long Term Care Branch;
20 Kinsey Bowen, Counsel, Ministry of the Attorney
21 General - Health and Long Term Care Branch.

22

23 ALSO PRESENT:

24

25 Carissa Stabbler, Stenographer/Transcriptionist

1 -- Upon commencing at 11:00 a.m.

2

3 LEAD COMMISSIONER FRANK MARROCCO:

4 Ready when you are, Mr. Callaghan.

5 JOHN CALLAGHAN: Good morning. We have
6 Madame Fougère with us today.

7 Madame Fougère, there's a transcript
8 being transcribed of our attendance today and our
9 discussion.

10 And this is a witness who I will lead
11 through her evidence and ask her questions, and the
12 Commissioners may, in fact, ask questions as we go.

13 Are you ready, Madame Fougère?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

15 Yes, I am.

16 JOHN CALLAGHAN: You were the Deputy
17 Minister of Long-Term Care when the Ministry was
18 split from the Ministry of Health; correct?

19 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

20 Yes.

21 JOHN CALLAGHAN: And could you just
22 tell us a little bit about your background prior to
23 that, particularly in the OPS?

24 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

25 Yes, so in the OPS, I basically -- I started in

1 1991, and I spent, I would say, about 18 years in
2 the Ministry of Education, so that's
3 elementary/secondary education. So I would say
4 about 10 years in that Ministry, and 8 years in the
5 Ministry of Training, Colleges and Universities as
6 an ADM.

7 Also spent a few years as ADM of the
8 Ministry of Francophone Affairs. And then from the
9 Ministry of Training, Colleges and Universities,
10 went on to become the deputy for the Ministry for
11 Seniors and Accessibility as well as I kept the
12 Ministry of Francophone Affairs, so basically I had
13 a double portfolio.

14 And then in July 2019, late July 2019,
15 I was asked by the Secretary of Cabinet to take on
16 the role of deputy of the new Ministry of Long-Term
17 Care, so I left the Ministry for Seniors and
18 Accessibility, went on to the Ministry of Long-Term
19 Care, and also kept, again, the Ministry of
20 Francophone Affairs.

21 JOHN CALLAGHAN: Can you tell us the
22 actual time frame you were Deputy Minister of
23 Long-Term Care?

24 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
25 Yeah, so officially started on the 29th of July

1 2019 and went until March the 6th -- well, March
2 the 8th -- this was a weekend, actually -- 2020.
3 So started my new portfolio for the Women's
4 Directorate, the Office of Women's Issues on
5 March the 9th, 2020.

6 JOHN CALLAGHAN: Is that where you
7 presently are?

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
9 Yes, I am. Again, I continue to be the Deputy for
10 the Ministry of Francophone Affairs, and also I am
11 within the Ministry of Community and Social
12 Services in charge of the Office of Women's Issues.

13 JOHN CALLAGHAN: So if we take you back
14 to July 29, 2019, when you go to the Ministry of
15 Long-Term Care, has the Ministry been stood up, as
16 it were, or was it to be created under your
17 direction?

18 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
19 No, actually -- yeah, one of the primary tasks that
20 was given to me, actually a very urgent one was
21 actually to establish the Ministry.

22 The Minister of Long-Term Care had
23 already been appointed in June, and then when I
24 became the Deputy of the Ministry of Long-Term
25 Care, one of my primary responsibilities was

1 actually to establish the Ministry of Long-Term
2 Care as an organizational structure.

3 JOHN CALLAGHAN: Could you let the
4 Commissioners know what that entails from an
5 operation perspective, how one goes about starting
6 a new ministry?

7 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
8 Not sure there's a playbook for that, but basically
9 when I took over, I immediately -- I had a lot of
10 conversations with the ADM responsible for the
11 Division of Corporate Management in the Ministry of
12 Health.

13 Worked very closely with my colleague
14 of the Ministry of Health, Deputy Angus, to look at
15 how we would disentangle, you know, the staff
16 complement that was dedicated to long-term care
17 within the Ministry of Health but also within a
18 design, a structural design, that would make sense
19 for a new ministry.

20 So obviously had had an opportunity to
21 discuss the matter with the Minister of Long-Term
22 Care and basically came to the conclusion that we,
23 in addition to an operations division, which
24 already existed within the Ministry of Health and
25 Long-Term Care -- so that division, the operations

1 division, headed by ADM Brian -- his last name
2 escapes me.

3 JOHN CALLAGHAN: Pollard.

4 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
5 Pollard. He's very well known, actually.

6 JOHN CALLAGHAN: He is by us.

7 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
8 Yeah, so under Brian Pollard's ADM-ship -- so the
9 operations division was actually carved out of the
10 Ministry of Health, was --

11 JOHN CALLAGHAN: So if I can stop you
12 there, Madame Fougère. I think what might help is
13 if we could put up Document No. 3. This is an
14 organizational chart of your Ministry as of
15 February 13, 2020.

16 If I can just -- just to set the stage
17 here, if you take the Long-Term Care Operations
18 where Mr. Pollard is at the far left top box, and
19 then you take the Long-Term Care Policy with
20 Ms. Janet Hope, and then from there across, as I
21 understand it, Strategic Policy, Planning and
22 French Language Services, Corporate Services,
23 Capacity Planning and Analytics, and Health
24 Services I&IT Cluster, those are shared divisions
25 with the Ministry of Health; is that correct?

1 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

2 Yes. Yes.

3 JOHN CALLAGHAN: So those four boxes
4 and what goes below them, the ones that aren't
5 highlighted there, they would report to both you
6 and to the Deputy Minister of Health; correct?

7 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

8 Yes.

9 JOHN CALLAGHAN: So your Ministry had
10 basically two lines that were solely responsible to
11 long-term care, and that is operations and policy;
12 correct?

13 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

14 Yes.

15 JOHN CALLAGHAN: Maybe we can go
16 through these just to make sure we understand it.

17 So you mentioned ADM Pollard. The
18 operations group that eventually became the
19 operations group of long-term care, did that
20 preexist as a group in the Ministry of Health?

21 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

22 Yes, it did.

23 JOHN CALLAGHAN: And so it had under it
24 the Long-Term Care Inspections and the Licensing,
25 Policy & Development as it's shown here?

1 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

2 Yes.

3 JOHN CALLAGHAN: And we're going to
4 have a discussion about the challenges that the
5 Ministry faced independent of trying to get it
6 organized, but let's just go through the structure
7 then.

8 Then Long-Term Care Policy, was there
9 an independent division at Health called Long-Term
10 Care Policy, or was that new?

11 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
12 don't believe so. I think that this was a
13 dedicated policy function that we created within
14 the Ministry of Long-Term Care, and it was meant to
15 be solely dedicated to long-term care.

16 JOHN CALLAGHAN: And then below that,
17 Long-Term Care Funding and Programs, so that would
18 have been -- was that a policy element, or was that
19 an element of -- hate to be crass about it --
20 cheque writing to the long-term care homes, but is
21 that -- what was that?

22 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
23 No, this was more what I would call operating
24 policy. You know, programs, for example, the Minor
25 Capital Program would have been -- design would

1 have been done by that particular area.

2 JOHN CALLAGHAN: And then Long-Term
3 Care Policy and Modernization, I think we'll talk
4 about this a bit more, but can you just tell us a
5 little bit about what that division did and whether
6 that preexisted in the Ministry of Health, as far
7 as you're aware?

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
9 don't believe it preexisted. This particular
10 branch was really to look at the longer term.
11 There was a particular -- I mean, at the time I was
12 there, there was a particular focus on staffing,
13 for example, staffing policy, and, you know,
14 anything that would allow, I would say, focused
15 policy making for the longer-term prospects of
16 long-term care.

17 And, as I said, depending on the
18 priorities of the day at that time, there was
19 definitely -- it was meant to be focused on quality
20 and --

21 JOHN CALLAGHAN: Sorry, you froze
22 there. Could you repeat your last 15 seconds?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Yeah, so I said it was to be -- I mean, at the
25 time -- can you hear me now?

1 JOHN CALLAGHAN: Yes.

2 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
3 So at the time, it was to be, as I said, focused
4 more on the longer term, but we were particularly
5 looking at quality issues starting with staffing
6 and the staffing strategy for long-term care.

7 JOHN CALLAGHAN: Was the modernization
8 of long-term care a government priority at that
9 time?

10 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
11 Yes, it was a priority, and at that time, it was
12 particularly focused on the commitment of the
13 government regarding the creation of 15,000 new
14 beds and the redevelopment of 15,000 existing beds.

15 But modernization also meant, as I
16 said, how do we look at the long-term care sector
17 on the continuum of care, and how do we make sure
18 that quality-wise it has what it needs in order to
19 respond to the, you know, increasingly acute care
20 needs of residents.

21 JOHN CALLAGHAN: Am I to understand
22 that this work was beginning with the new Ministry,
23 or was that work preexisting in the Ministry of
24 Health and Long-Term Care at that time?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I

1 think that the bed development process had been
2 initiated under the Ministry of Health and
3 Long-Term Care, but I think it's fair to say that
4 when the new Ministry was created, this came to the
5 fore as a priority.

6 JOHN CALLAGHAN: And then you have
7 another division under a director for public
8 inquiries. Was that the Gillese Inquiry
9 recommendations?

10 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
11 Yes. Yes. This was really to respond to
12 Justice Gillese's report.

13 JOHN CALLAGHAN: As I look at the
14 structure, the Ministry seems to have basically
15 three functions: One, it does do transfer
16 payments, as it were, because it actually funds the
17 long-term care home operators; correct?

18 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
19 Yes.

20 JOHN CALLAGHAN: And then it has an
21 operations group that deals with licensing and
22 inspections. In other words, it actually has an
23 operative function of oversight?

24 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
25 Yes.

1 JOHN CALLAGHAN: And then, of course,
2 you have under ADM Hope a number of policy streams.
3 You have Funding and Programs, Modernization, and
4 Inquiries; is that fair?

5 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
6 Yes.

7 JOHN CALLAGHAN: Am I missing anything
8 other than -- you know, I know the support stuff on
9 the left -- pardon me, on the right of the screen
10 that you share, but as core functions; is that it?

11 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
12 Yes, the core functions, those were the core
13 functions.

14 I should add that there was also an
15 additional core function that was created within
16 this new Ministry, and it was the communications
17 branch, which you see on the top right. And this
18 was solely dedicated to the Ministry of Long-Term
19 Care.

20 JOHN CALLAGHAN: Because this note on
21 the top right has communications as being a shared
22 function. You'd have to look. You'll see there's
23 some little -- well, I'll take you down there.

24 It's reports to the Ministry of
25 Long-Term Care and Cabinet Office. Is that a

1 function you shared with Cabinet Office, or is that
2 a dual reporting issue?

3 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
4 It's a dual reporting. It's actually standard
5 within the public service.

6 JOHN CALLAGHAN: And the same with
7 legal services. Obviously it's a shared function,
8 according to the note, with the Ministry of Health,
9 Ministry of Long-Term Care, and obviously the
10 dotted line back to the Attorney General; correct?

11 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
12 Yes.

13 JOHN CALLAGHAN: So as I understand it,
14 I take it information flows up from the ADMs to you
15 and then you to the Minister; correct?

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
17 Yeah, normally, yes.

18 JOHN CALLAGHAN: So how would you
19 communicate with the Minister? Would you
20 communicate by email?

21 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
22 Not necessarily. Essentially, the communication
23 between my office and that of the Minister's office
24 would be done primarily through the -- my Executive
25 Assistant who would be in frequent contact with the

1 Chief of Staff of the Minister's office as well
2 as -- well, depending on the issue at hand, the
3 Director of Policy, but I would say the first
4 contact, the primary contact, for the Executive
5 Assistant would be the Chief of Staff.

6 So a lot of back-and-forth would
7 happen, you know, between those two individuals,
8 and then I would meet with the Minister on a
9 regular basis face-to-face, and I would also meet
10 with the Chief of Staff of the Minister on a
11 regular basis.

12 JOHN CALLAGHAN: So who was your
13 Executive Assistant at the time?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 Jovana Blagotic.

16 JOHN CALLAGHAN: Okay. Ms. Blagotic.
17 And then the Chief of Staff at the time?

18 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
19 It was Jessica. And unfortunately, I'm trying
20 to -- I'm going to massacre her name. It starts
21 with a G.

22 JOHN CALLAGHAN: Georgakopoulos?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Yes. It's a Greek name, yes.

25 JOHN CALLAGHAN: Okay. Was the Chief

1 of Staff the whole time?

2 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
3 Well, she was a Chief of Staff while I was there.

4 JOHN CALLAGHAN: Okay. I ask the
5 question because notwithstanding the request for
6 all relevant documents, we really have no documents
7 or emails between you directly and Minister
8 Fullerton.

9 That doesn't surprise you,
10 notwithstanding the breadth of the inquiry that you
11 have no documents?

12 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
13 No. My -- the practice was actually to have
14 face-to-face meetings with the Minister and to
15 communicate with her like that or through her chief
16 or at briefings.

17 JOHN CALLAGHAN: So what I'd like to do
18 now is take you through the foundational briefing
19 we understand you got at the time at Document 2.

20 And part of this is to educate the
21 Commissioners as to what the state of play was when
22 you went in and what the state of play was in
23 long-term care.

24 So this is the foundational briefing,
25 and I'm assuming you would have gotten a

1 foundational briefing when you went in there in
2 July; correct?

3 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

4 Yes, I received a number of foundational briefings.
5 I would imagine this would have been one of them,
6 yes.

7 JOHN CALLAGHAN: Right. Okay. If we
8 could then just go over to page 2 just to get an
9 idea of the topics.

10 So you would have gone through the
11 various elements on this page, for example, the
12 vision and mandate; going down to the Long-Term
13 Care System, the oversight mechanisms, the quality
14 programs, inspections, et cetera?

15 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

16 Yes. Well, if I -- I mean, if you had to ask -- if
17 you were to ask me off the top of my head whether I
18 would remember all of that, I would say "no."

19 This is indeed what I was briefed on
20 the first time around, and this was very much of a
21 descriptive briefing.

22 JOHN CALLAGHAN: And, again, I'm not --
23 this isn't a memory test, so if you don't remember,
24 that's fine. It's just -- I'm trying to sort of
25 set the tone for both yourself and for the

1 Commissioners as to what the state of play was that
2 summer before COVID.

3 So if we go to Slide 5, and this does a
4 review of various third-party reviews. And the
5 Commissioners have heard of a number of them,
6 perhaps not all these, to be blunt, but I take it
7 there were an awful lot of reviews in this area
8 when you got there relating to staffing, relating
9 to quality inspections.

10 By the time you got there, there had
11 been lots of studies going on. Was that your view
12 or --

13 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
14 So I understand, I mean, if you look at, yeah, the
15 number of inquiries that have been -- or reviews
16 that have been conducted, if I look at it on a
17 factual basis, there was a lot of activity.

18 JOHN CALLAGHAN: So we start with the
19 long-term public inquiry, which at that point you
20 were in the midst of trying to implement the
21 recommendations; that is, the Ministry was;
22 correct?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Sorry, I just want to make sure I understand. I
25 came -- yes, I came upon the delivery of

1 Justice Gillese's report.

2 JOHN CALLAGHAN: Right.

3 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

4 So I -- that date is, in fact, ascribed on my mind
5 because I started on the 29th, and if I'm not
6 mistaken, Justice Gillese delivered her report on
7 the 31st of July.

8 JOHN CALLAGHAN: Right. And I should
9 have pointed that out. It's in the line there at
10 the bottom. I didn't mean to mislead you.

11 So that report, that was one of the
12 focus points of what you were to do, which was to
13 implement those recommendations or those -- review
14 and implement those recommendations?

15 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
16 Well, implement -- certainly the Ministry had the
17 lead on coordinating implementation because if my
18 memory serves me well -- and I have not gone back
19 to this report, but there were recommendations
20 directed at the government itself and, of course,
21 you know, Ministry of Long-Term Care, Ministry of
22 Health, other Ministries but also stakeholders and
23 operators.

24 JOHN CALLAGHAN: Right. And one of
25 those that we've come across and which we'll talk

1 about was a staffing study; correct?

2 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

3 Yes. Yeah.

4 JOHN CALLAGHAN: And then the Auditor
5 General had reviewed the performance of long-term
6 care in previous years, and I take it you were made
7 aware of the various reports that set out concerns
8 that the Auditor General had; correct?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

10 Yes. I would say at a very high level, yes.

11 JOHN CALLAGHAN: So there was concerns
12 over the placement process, and I don't know if
13 that occupied any of your time. Did that occupy
14 any time of yours during your tenure?

15 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

16 Not that I recall.

17 JOHN CALLAGHAN: Now, how about the --
18 she also commented on the Long-Term Care Quality
19 Inspections Program. We've heard some of that.
20 Did that occupy much of your time?

21 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

22 Honestly, the inspection function was very much
23 managed within the operations division. What I was
24 made aware of and I was briefed on from time to
25 time was how the Ministry, through the operations

1 division, was actually evolving, what -- one main
2 recommendation of the AG, which was namely to set
3 up a risk-based approach to inspections.

4 JOHN CALLAGHAN: Risk-based as opposed
5 to a proactive review base? Is that what that is
6 intended to reflect?

7 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
8 Risk-based in the sense of really -- and I'm
9 oversimplifying it, but really focusing more on the
10 most critical incidents that were occurring in
11 long-term care homes and not so much on -- you
12 know, on occurrences that may not be as -- you
13 know, may not have as severe an impact on
14 residents.

15 JOHN CALLAGHAN: And if you go to the
16 next one, Food & Nutrition in Long-Term Care Homes,
17 we've heard some of that in this inquiry. Was that
18 a review -- came out in 2019. Was that a review
19 that was being acted upon during your tenure?

20 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
21 Well, actually, again, if I'm not mistaken, the
22 report on food and nutrition came -- was tabled by
23 the Auditor General in December 2019, which means
24 that -- I think so.

25 You know, maybe if my memory does not

1 serve me well, I thought it was -- it came in
2 December 2019, and then the idea was for us to
3 actually plan for a response to -- not just a
4 response, but actually to implement the
5 recommendations of that inquiry.

6 So I apologize if my memory is not
7 quite correct, but that's what I recall.

8 JOHN CALLAGHAN: All right. I
9 understand it came out in 2019. I can't confirm
10 the date, so you may be right.

11 But there was never action taken on
12 that. As far as you're aware, it was more of a
13 response --

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 No, because as far as I'm aware, the report had
16 just been tabled because I -- in fact, I remember
17 during the fall, there was some back-and-forth with
18 the Office of the Auditor General with respect
19 to -- which is normal under such circumstances.

20 So that's why I'm almost certain that
21 that report came later in the fall, which is
22 usually the time frame within which the Auditor
23 General tables her reports, unless there's a
24 special report.

25 JOHN CALLAGHAN: All right. If we go

1 down further, there was also a -- go down a little
2 further. There was also a Standing Committee on
3 Public Accounts Recommendations. This arises out
4 of the long-term care inspection report done by the
5 auditor. Did that occupy any of your time?

6 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

7 No. I suspect this may have come just before I
8 arrived, but I'm not absolutely certain. But it
9 didn't occupy my time.

10 JOHN CALLAGHAN: The Financial

11 Accountability Office provided some data, and we've
12 heard from them, and they had some very interesting
13 data.

14 Was that data used for the purpose of
15 your modernization, or was this something else, or
16 do you recall?

17 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

18 The data from the FAO was instructive, but at the
19 time when the data were submitted, I think it may
20 have been premature for us to take it into account
21 for whatever we were doing in modernization.

22 If I remember, the FAO was focusing on
23 wait time --

24 JOHN CALLAGHAN: Correct.

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 -- and also on, I think, projecting how long -- you
2 know, what it would take to actually take care of
3 the wait time.

4 So it's not that we did not -- you
5 know, we paid attention to it, but to the point of
6 folding it into, you know, our catalyst for
7 whatever we were doing around that development and
8 redevelopment, you know, I'm -- it's probably
9 overstated to say so.

10 JOHN CALLAGHAN: And then the last one
11 they refer to is the Geriatric and Long-Term Care
12 Review Committee, which frankly, we had not heard
13 of. Can you tell us about that?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 I'm afraid I'm not aware. I don't recall. I think
16 this came from the Chief Coroner; right?

17 JOHN CALLAGHAN: Yes, it did.

18 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
19 Yes. Now, unfortunately, I can't help you on that
20 one.

21 JOHN CALLAGHAN: And then if we could
22 go over to the next page, the next section deals
23 with the long-term care system itself.

24 And we've heard this. I don't know how
25 much discussion would have been involved when you

1 got there about the phrase, quote:

2 "A long-term care home is
3 primarily the home of its residents
4 and is to be operated so that it is
5 a place where they may live with
6 dignity and in security, safety and
7 comfort and have their physical,
8 psychological, social, spiritual and
9 cultural needs adequately met."

10 And you had mentioned a moment ago
11 about the increase in acuity levels. During your
12 tenure, was there any discussion about the
13 appropriateness of such a definition given the
14 increasing acuity level of the residents?

15 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
16 wouldn't say that there was an explicit connection
17 made between this definition, which, if I'm not
18 mistaken, is actually in the Act, and high acuity
19 or the need.

20 However, certainly in our discussions,
21 there was an acknowledgement that the level of
22 acuity of residents seemed to be on the increase.
23 And this is something which had also been, I would
24 say, conveyed through a variety of interlocutors,
25 Justice Gillese herself in her report, I believe

1 so, but also operators and the associations in
2 charge of the two long-term care associations.

3 JOHN CALLAGHAN: So with that knowledge
4 of a rising acuity rate for long-term care
5 residents, what was the Ministry doing during your
6 period to address that and to account for it?

7 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
8 Well, one of the -- if I recall, one of the areas
9 of focus was actually how to open the door to what
10 was called high-acuity beds, so in other words, to
11 be in a position to set aside, you know, within
12 long-term care homes, you know, beds for patients
13 and residents with, you know, maybe behavioural
14 issues or really high acute need.

15 So this was a specialized program. I
16 think it was called the -- it was an enhanced
17 support for those residents, and I think it was
18 meant to be a bit of a -- you know, it was a bit of
19 a testing program to see how we could facilitate
20 highly specialized care for those residents.

21 Now, I want to -- you know, I just want
22 to acknowledge that I'm not an expert here, but I
23 remember at the time that this one -- this was one
24 of the initiatives that was being -- in fact, that
25 was being implemented, and also some research that

1 was commissioned just to see whether or not -- you
2 know, what else could be done in order to
3 facilitate specialized care.

4 So that's what comes to my mind. There
5 might have been other things, but right now, I
6 can't recall.

7 JOHN CALLAGHAN: Was that to be
8 accommodated within the existing bed structure, or
9 was this to be part of new beds?

10 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
11 think it was additional beds specifically
12 dedicated, but I -- I think this would have to be
13 fact-checked because I'm not 100 percent sure.

14 JOHN CALLAGHAN: So if we just go over
15 to the next page, the briefing discusses oversight.

16 Now, I take it you appreciated that the
17 structure of long-term care was effectively -- the
18 government paid the bulk of the money to long-term
19 care homes, and residents were not in a free-market
20 setting but were to apply to a home -- apply for a
21 long-term care bed and were assigned a bed;
22 correct?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Yes.

25 JOHN CALLAGHAN: I take it that left

1 the government in a position where they had an
2 obligation of oversight as to how these long-term
3 care homes operated; correct?

4 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
5 Yes, under the Act. Yeah.

6 JOHN CALLAGHAN: And this note would
7 suggest that one of the main ways we do that is
8 through the legislative structure; correct?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
10 Yes.

11 JOHN CALLAGHAN: And then if you go to
12 the next page, you'll see that they set up other
13 areas regarding oversight. They refer to:

- 14 - Residents' Bill of Rights
- 15 - Residents' Care and Services,
16 including Prevention of Abuse and
17 Neglect and Minimizing of Restraining;
- 18 - Admissions, including a Placement
19 Coordination role
- 20 - Residents' Council and Family Council
- 21 - Operation of Homes, including staff,
22 information for residents and
23 continuous quality improvement
- 24 - Funding, including resident fees
- 25 - Licensing

1 - Compliance, Inspection and
2 enforcement.

3 Was it the government's view that these
4 were the sort of constraints of oversight on the
5 operators of long-term care homes?

6 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
7 Well, those are the areas that are embedded in the
8 Act in its regulatory framework.

9 JOHN CALLAGHAN: Right. And so what
10 other -- well, I'm just trying to figure out -- in
11 terms of oversight and how it was viewed at that
12 time, did oversight come through inspections and
13 licensing by the government largely?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 Yes. Yes.

16 JOHN CALLAGHAN: Do you recall any time
17 in your tenure that anybody's licence was revoked?

18 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
19 can't off the top of my head. I do remember being
20 apprised of, you know, the regular -- because I
21 would get regular inspection reports. They were
22 just updates just to, you know, keep me informed.

23 And from time to time, if there were a
24 few cases with red flags, I would be made aware
25 with basically an indication of what the next steps

1 might be.

2 So I can't affirm without any doubt
3 that there would have been a revocation, but it is
4 certainly a prospect that from time to time would
5 have been considered.

6 JOHN CALLAGHAN: And the red flags,
7 would you have been given a list of homes that were
8 of concern from time to time?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
10 wouldn't have been given a list of homes with
11 specific concerns. I mean, basically the update
12 was on the inspection as a whole, and then you
13 could see whether -- you know, you could see where
14 some homes that may have shown a pattern of -- if I
15 may use that term, although I don't think it's
16 appropriate, but recidivism, you know, that those
17 homes were usually under scrutiny.

18 And the director of inspections was the
19 one basically, you know, keeping a close eye, and
20 then, you know, our Minister's office would also be
21 kept informed, but it didn't mean that we would
22 necessarily intervene right away. I mean, the
23 process had to, you know, follow its course.

24 JOHN CALLAGHAN: Let me just take you
25 to Slide 15. This is a schematic of what the

1 inspections process looked like at the time, and
2 you'll see following in the box, the triangles
3 here, and then in between the two triangles on the
4 far left in the middle, it provides for the actual
5 sanctions.

6 You have written notifications,
7 Voluntary plan of correction. Above that,
8 compliance orders, and it goes up top to the
9 most -- the most significant responses are
10 mandatory management order, financial sanctions,
11 and revocation of license.

12 Do you recall in your time whether
13 there were financial sanctions?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
15 don't recall financial sanctions. I do recall that
16 there were some cases of mandatory management
17 orders, but I don't recall financial sanctions as
18 such. Doesn't mean that they didn't happen, but I
19 don't recall any.

20 JOHN CALLAGHAN: Do you know whether
21 there was a process by which those who were under a
22 management order had an ability to rehabilitate
23 themselves as it were?

24 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
25 Yeah, I think there -- yes, there is a process, but

1 they would have to -- you know, they would have to
2 demonstrate progress on the basis of, you know,
3 specific improvement factors in order to, you know,
4 quote/unquote, redeem themselves.

5 But I just want to specify that I'm not
6 an expert when it comes to inspection. It's
7 actually a very -- it's extremely tightly
8 structured. It's very, very technical, and the
9 sequencing of steps is particular, you know, given
10 the implications of those decisions.

11 JOHN CALLAGHAN: And if we can go to
12 the next slide, I take it you were aware that there
13 was a movement away from the more general
14 inspection and more directed to critical incidents
15 and complaints. Were you aware of that?

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
17 Yes, so this is what I was referring to when I
18 mentioned the risk-based approach. This is
19 really -- the focus was on critical incident, not
20 to say that this was the sole focus.

21 But there was also -- one of the goals
22 of this approach was also to really, as much as
23 possible, focus on educating operators sometimes
24 on, you know, their responsibilities but, at the
25 same time, keeping in mind, you know, the safety of

1 residents.

2 JOHN CALLAGHAN: So the RQI were --
3 they're only 20 percent, and complaints and
4 critical incidents were about 66 percent of the
5 inspection types. That's in 2018. This is a year
6 and a half before you got there; correct?

7 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
8 Yeah, this was -- because this started getting
9 implemented before I got to the Ministry.

10 JOHN CALLAGHAN: So let me just take
11 you, then, to slide -- or the resident safety. I
12 suspect it's -- they stopped getting numbered here
13 for some reason, but I think it's about Slide 20.

14 If we go down to that, please. So this
15 is the top-ten issued noncompliances, and I'm just
16 trying to see if this was ever brought to your
17 attention in any meaningful way.

18 Number 10 noncompliance was infection
19 prevention and control. You'll see that at the
20 bottom. Maybe scroll that up a little bit.

21 You'll see that they're different
22 years, and the maroon year is 2016, and they had
23 163 incidents of infection prevention and control
24 program encompassing 154 homes, which is about
25 25 percent of homes.

1 Am I right? That's about 154 because
2 there was about 166 homes. Would that be about
3 right in your mind?

4 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
5 Yeah.

6 JOHN CALLAGHAN: And then we see that
7 that number goes down to 2018 when they're only 112
8 and 107 homes, but still, you know, it's 6 of the
9 homes.

10 And I take it -- did you have
11 discussions about these top-ten noncompliance
12 issues? Do you recall any discussion about the
13 concern about infection prevention and control
14 programs?

15 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
16 As part of general discussion, this would come up,
17 but I have to say that while I was there, it is not
18 an area that, you know, was brought to my attention
19 to the point of my recalling it. It doesn't mean
20 that it was not, but it was along with other
21 issues.

22 Skin and wound care is something that
23 would often come up, and medication I would pay
24 attention to as well just because -- not that I
25 didn't pay attention to the rest, but medication,

1 given the recommendations of Justice Gillese, was
2 also something that was -- you know, tried to pay
3 attention to.

4 But infection prevention and control, I
5 mean, from my perspective, this was something that,
6 you know, was par for the course.

7 And the only time when I would say
8 this -- I recall this coming up or this certainly
9 being clear to me is in the event of, say, a flu
10 outbreak where, you know, infection prevention and
11 control -- you know, this was something, a function
12 that obviously was underscored, but it was just --
13 you know, I would say part of a general discussion.

14 JOHN CALLAGHAN: Okay. I want to talk
15 about the next section, and this is staffing levels
16 and supports. If we can go up to page 26, please,
17 and just go to the first page.

18 Now, we've heard a fair bit about
19 staffing issues, and this report would indicate
20 that you were briefed on them.

21 And if we could go to Health Human
22 Resources Strategy, and principally they were
23 talking about nursing on the next page and PSWs.
24 So if you could go to the next page.

25 I wouldn't mind just hearing your view

1 of it, but I will touch base on this to perhaps
2 twig your memory.

3 Under "Nursing," it says:

4 "Work is currently underway to
5 explore greater utilization of
6 registered practical nurses, given
7 the shortage of registered nurses.
8 Policy changes to incent greater use
9 of allied health, such as
10 occupational therapists have been
11 made."

12 If you go to PSWs:

13 "MLTC has been advised that
14 full-time PSWs do not typically
15 leave their employment settings.
16 However, turnover is highest among
17 part-time LTC PSWs and virtually all
18 entry-level roles are part-time or
19 casual. The ministry is
20 investigating what percentage of the
21 PSW workforce is part-time and has
22 been advised that anecdotally it
23 could be up to 50%."

24 But, you know, we've been told that it
25 was actually greater than 50 percent.

1 "MLTC is now exploring
2 opportunities to increase the number
3 of full-time lines in LTC.

4 MLTC is also exploring allowing
5 PSWs who are enrolled in a
6 certification program to work in a
7 LTC home in either a super-numerary
8 or a complementary basis with a
9 buddy.

10 Through the ministry of economic
11 development and job creation, the
12 ministry is supporting policy
13 proposals to increase the
14 recruitment of health workers from
15 abroad, who would work as PSWs."

16 I read that to you not because you
17 needed me to read it to you, but just to remind
18 you, but could you just tell the Commissioners what
19 you were doing, now having perhaps been refreshed
20 in your memory, about human resources?

21 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
22 Yeah, so maybe before I do so, I'm sure -- as you
23 will appreciate, health human resources -- well,
24 anything having to do with health human resources
25 planning, very, very complex because, you know,

1 you've got, you know, the perennial challenge of
2 matching supply and demand in the right places, you
3 know, at the right time and at the right level.

4 So I think that when it comes to health
5 human resources -- so maybe the one thing I should
6 say is that when it comes to analytics and really
7 getting as clear a picture as possible of the state
8 of play in terms of long-term care settings, LTC
9 was, you know, working very much with the analytics
10 division of the Ministry of Health to get a handle
11 on this because the Ministry itself didn't have
12 that capacity, but there was plenty of capacity on
13 the health care side.

14 JOHN CALLAGHAN: I think that was one
15 of your shared functions, by the way.

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
17 Yeah, it was a shared function, and I think what
18 you see here is, I would say, a preliminary
19 assessment, you know, of the state of play when it
20 comes to professionals or workers, health care
21 workers, you know, within the long-term care
22 environment.

23 Now, there is -- just based on what we
24 heard, certainly I heard, you know, from the
25 associations themselves, the two associations,

1 AdvantAge and OLTCA, also, you know, Justice
2 Gillese's report was pretty compelling when it
3 comes to staffing within long-term care homes and
4 then even the testimonials of operators.

5 So all of that being -- certainly from
6 an operator's perspective, this is very much
7 anecdotal, but what we knew at the time is that,
8 for example, a lot of PSWs or a lot of people being
9 trained as PSWs through, let's say, colleges
10 would -- you know, a lot of them not entering, you
11 know, into that occupation.

12 So there seemed to be a shortage within
13 long-term care settings. The demand seemed to be
14 on the increase, but the supply and the channels
15 for supplying PSWs on the one hand, because I'll
16 just focus on that for the time being, that supply
17 seemed to be -- you know, even if you were to argue
18 that there were enough students going into those
19 programs -- and they're basically college programs.

20 If I'm not mistaken, we were told that
21 many, many of those graduates either did not go
22 into a PSW occupation or, if they did, you know,
23 would leave shortly after. And then you have, as
24 you have pointed out, the issue around part-time
25 versus full-time and so on.

1 So that's one thing. And then on the
2 nursing side, look, I mean, I don't have, you know,
3 a labour market information graph in front of me,
4 but I think there were certainly anecdotal
5 information that there was a lack of -- a shortage
6 of nurses and that one way of addressing that
7 shortage was to also look at RPNs as, you know, a
8 way of recruiting nurses with the kind of training
9 that would be pertinent for the needs of a
10 long-term care setting.

11 The issue around RNs, if I'm not
12 mistaken, is that the RNs -- many of the RNs, if
13 not the majority of them, if they have a choice
14 between a long-term care home and a hospital, they
15 will go to the hospital for a variety of reasons.

16 So that's my understanding of the --
17 but no question. And I think that subsequent to
18 that, you know, the government, I think, has -- did
19 announce a staffing strategy, and I think there's
20 no question that there is -- there's a recognition
21 that this has to be addressed.

22 And it's not just about PSWs and/or RNs
23 or RPNs. It's also about -- as the deck indicates,
24 allied professionals can be physiotherapists, you
25 know, social workers depending on, I would say, the

1 health profile of residents, and not just the
2 physical health profile of residents but also their
3 mental, you know, and...

4 Anyhow, so I think -- you know, my
5 understanding at this point, this is certainly an
6 area that the Ministry is looking at.

7 JOHN CALLAGHAN: So just in fairness to
8 you, the deck is prepared before Justice Gillese
9 issues her report.

10 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
11 Right.

12 JOHN CALLAGHAN: And I take it from
13 what you're saying is that in your time, you
14 weren't able to address these issues.

15 As I understand what was going on was
16 that you were going to have a staffing study which
17 you had instigated which was to report and did
18 report after you left in July of 2020; correct?

19 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
20 Yes, so the -- when I left in March, actually,
21 March 2020, by that time, the study had been
22 launched. There was a working group made up of
23 experts that had been set up.

24 And my understanding is that, you know,
25 the report, you know, with its recommendations

1 was -- or the staffing strategy came -- no, well,
2 I'm not sure if the staffing --

3 JOHN CALLAGHAN: I think we can help
4 you out there. The staffing study came in the
5 summer, and, in fact, the Commissioners endorsed
6 this staffing study.

7 What I'm just trying to get at is these
8 issues that I see here and that we're talking about
9 were subject to that staffing study. And during
10 your tenure between July and March, progress was
11 awaiting that study, is what I understand. Have I
12 got that correct?

13 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
14 Yes.

15 JOHN CALLAGHAN: So if we then go into
16 the next section, which is affordability, and I
17 take it that -- and this is a statistic that I'm
18 not sure we've seen, so I'm going to raise it for
19 the benefit of the Commissioners.

20 You'll recall that there are
21 essentially three levels of accommodation. There's
22 private, semi-private, basic. Private and
23 semi-private are fairly self-descriptive, but basic
24 is three or four to a room. Is that your
25 understanding?

1 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
2 Yeah. Yes. Well, depending on the home itself,
3 yes.

4 JOHN CALLAGHAN: It says:

5 "Availability of Basic
6 Accommodation Beds: Today about 46%
7 of long-stay beds are basic
8 accommodation with the remaining
9 being either private or semi-private
10 accommodation both of which carry a
11 premium.

12 The preference for basic by
13 applying residents is 56%, and as
14 such, there is always pressure on
15 the supply of basic beds, which
16 leads to concern around
17 affordability of long-term care.

18 As redevelopment occurs, more
19 basic beds will be added, but the
20 percentage of basic beds may
21 actually drop as the system migrates
22 to the industry standard of 60%
23 preferred and 40% basic.

24 Most operators require this mix
25 of beds to make the economics of a

1 redeveloping work. A part of the
2 work being completed with IO is to
3 look at options to increase basic
4 accommodation." [AS READ]

5 So just to break that down a little,
6 was it your understanding, then, that as this
7 suggests, that there was more demand for basic than
8 there were beds?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
10 Yes.

11 JOHN CALLAGHAN: And that the basic
12 structure, the three- or four-bed structure, was
13 more economic for the operators?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 Well, I think you have to look at the basic beds
16 and the preferred, and I think operators like to
17 have a mix of the two so that they can sustain
18 their operations.

19 JOHN CALLAGHAN: When it says 60
20 percent preferred and 40 percent basic, is
21 preferred the semi- and private room?

22 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
23 Well, it's what they call -- preferred would entail
24 a co-pay. So in other words, there's a
25 contribution on the part of the individual to

1 actually -- you know, to the payment of the bed.

2 JOHN CALLAGHAN: So the co-pay being an
3 added incentive to the operator?

4 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
5 Well, you know, I mean, the operator -- they have a
6 business to run, so, you know, they look at the mix
7 which allows them to sustain their operations.

8 I think I can say that at the time,
9 there was a fair amount of discussion within the
10 Ministry but also with -- certainly with the
11 association around what would be the desirable mix.

12 And given the demand for basics, you
13 know, we certainly were looking at the possibility
14 of increasing the availability of basic beds, but,
15 you know, I can't say -- I mean, you know, I can't
16 go any further than this on that.

17 JOHN CALLAGHAN: So just to be clear,
18 the preference for the operators were to have the
19 preferred beds, which involve the co-pay. And is
20 it that 56 percent of the residents applying wanted
21 basic because of the economics? Is that the
22 understanding?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Well, I mean, there's -- I think you can infer that
25 if there is a demand for basic, you know, it's

1 probably a proxy for, you know, what people can
2 actually afford. So that's my understanding of it.

3 And the preferred, I think the -- I
4 mean, the concept of preferred speaks to choice to
5 some extent, and people who are able to afford, you
6 know, a semi-private or private then pay a
7 supplement in order, you know, to get their
8 preferred option.

9 JOHN CALLAGHAN: I take it at this
10 point in time, the strategy of the government was
11 to make more basic beds available, which I take it
12 would be the three or four bedroom when you --
13 because you've got 15,000 complement and another
14 15,000 redevelopment.

15 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
16 think when -- sorry, I want to make sure I
17 understand your question.

18 I mean, there was a recognition on the
19 part of the Ministry that within a modernization
20 agenda, that homes or new beds would actually have
21 to be built according to contemporary standards.

22 And those contemporary standards or
23 up-to-date standards were not necessarily in
24 alignment with, you know, the four people per room
25 or the three people per room.

1 I think that that phenomenon is also
2 very much typical of lots of smaller homes -- older
3 homes, rather, you know, would be in that
4 situation.

5 So I think part -- as I said, part of
6 the modernization was not just about accelerating
7 as much as we could the construction of beds and
8 redeveloping old beds, but in redeveloping beds --
9 you would have to check with, you know, the
10 Ministry itself because I don't want to mislead,
11 but the redevelopment of beds had very much to do
12 with updating and operating the standards.

13 JOHN CALLAGHAN: But it says here:

14 "As redevelopment occurs, more
15 basic beds will be added."

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

17 Well, I think basic -- I think it's just -- and,
18 again, you'd have to probably go and check, but I
19 would not necessarily equate the notion of basic
20 with three people or four people per room.

21 I think basic means affordability, that
22 it would be -- there would be a greater supply of
23 affordable beds. So that's my understanding, but,
24 you know, it's something that you may want to
25 clarify with the Ministry.

1 JOHN CALLAGHAN: Well, we will, and
2 we've had some evidence on it, and we'll take a
3 look at that.

4 If we can go to page 36. We were
5 talking about the long-term care development, and
6 you mentioned this before.

7 We've heard that when you -- the
8 government's commitment at the time was 15,000 new
9 beds and redevelopment of an additional 15,000
10 beds. We understand that in the fall of 2019,
11 there was a fair bit of outreach to address that
12 issue. Can you tell me what you recall of that?

13 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
14 The fall of 2019?

15 JOHN CALLAGHAN: Right, about
16 redevelopment.

17 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
18 Yes. So, yeah, there was a -- well, there were a
19 lot of conversations with the sector itself with,
20 you know, the long-term care associations, with
21 operators, but also with colleagues from the
22 Ministry of municipal -- sorry, Municipal Affairs
23 and Housing particularly as it relates to zoning,
24 development charges, land availability, so some
25 work also with Infrastructure Ontario.

1 And, in fact, we had -- we conducted
2 extensive consultations, and I think it was in the
3 winter 2019, I think it was January, with the
4 sector to -- that is a combination of operators
5 and, you know, representative associations to look
6 at, from their perspective, what the barriers to
7 long-term care development were and, you know, what
8 you see on the slide.

9 And those were identified as the main
10 barriers and, of course, depending on where you are
11 in the province, in what kind of a market, and
12 whether you're a small, medium, or large home.

13 Yes, so actually lots of consultations,
14 and I would say significant -- we had initiated,
15 when I was there, significant horizontal work
16 within government with partly ministries that, you
17 know, either whose legislation, regulations, or
18 whose sectors basically were relevant for the
19 purpose of unlocking more bed development or
20 redevelopment.

21 JOHN CALLAGHAN: And did you have
22 discussions about the advisability of having
23 for-profit, not-for-profit, or municipal homes
24 being in the market for all of them?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 Do you mean through those consultations or just --

2 JOHN CALLAGHAN: Well, just during your
3 period, was that a topic of discussion as to either
4 the mix between those three or whether one of the
5 three ought not to be in the market?

6 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

7 Certainly not on the latter. We did not discuss,
8 you know, the advisability of having private or
9 not. I think that -- and you're probably aware of
10 this. There is as part of -- and I don't know what
11 the state of play is, but there is the notion of a
12 mix in particular markets having a balance between
13 privates and not-for-profits and then, of course,
14 the municipal homes.

15 So I don't know whether this has
16 changed, but that balance has -- you know, we
17 certainly -- we would always keep our eye on the
18 balance concept just to ensure that there would be
19 a certain equilibrium, you know, between the
20 providers of long-term care beds, but I would say
21 whether private, you know, not-for-profits or
22 municipal, you know, there was no -- not that
23 I'm -- I certainly didn't take part in any
24 discussions in this respect.

25 JOHN CALLAGHAN: Did you have any

1 discussions or receive any information that would
2 indicate the feasibility of any of those sectors
3 participating in redevelopment given the capital
4 cost?

5 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

6 Oh, yes. This is the reason why there was so much
7 focus on the barriers because the -- I think it is
8 fair to say that -- and I think those folks have
9 been -- you know, have said so publicly.

10 There was a sense that in order to
11 advance the development of beds and even the
12 redevelopment of beds, that, you know, under the
13 current model, certainly the funding model at the
14 time, that it -- according to the operators or the
15 associations that the feasibility of, you know,
16 pursuing this was challenging.

17 And to wit, I mean, there had been --
18 you know, I'm sure you've already heard of a number
19 of attempts by previous governments, you know, to
20 accelerate or to push for the redevelopment of beds
21 and so on.

22 And, you know, that constantly seemed
23 to be a bit of a -- I remember when I came to the
24 Ministry and I looked at the numbers and, you know,
25 the decade-long attempt at, you know, pushing a

1 yardstick onto us, I mean, it felt like being on a
2 stationary bike.

3 JOHN CALLAGHAN: We heard some evidence
4 or some information about the change in the capital
5 rate, return to investors who might build out new
6 homes going up.

7 Was that something you signed off on,
8 or is that something that came after you or --

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
10 Well, I mean, what I did sign off on was the
11 actual -- what was being proposed as a new funding
12 model. And as part of this, there was -- there was
13 to be an increase in the construction funding
14 subsidy.

15 There was to be, where appropriate,
16 upfront payments particularly for those operators
17 that may not have access to equity or, you know,
18 financing.

19 And then there was also the
20 fundamental -- or the basic principle of all of
21 this was actually to make sure that this new
22 funding formula would actually take into account
23 markets, different markets.

24 And I think, you know, I've discussed
25 this before, that operating in a large market when

1 you look at the cost of land, at the availability
2 of land, development charges and so on, it's not
3 the same as being in a smaller market.

4 But in a smaller market, the issue
5 might be the availability of financing or even the
6 ability of finding developers who would, in fact,
7 you know, be prepared to build a home.

8 So the feasibility -- when we talk
9 about feasibility, what you see here listed as
10 barriers -- so, you know, those, according to many
11 operators, stood in the way of enabling, you know,
12 the -- I mean, I would say a timelier increase in
13 the supply of beds in relation to the demand.

14 And this led -- and actually I spent a
15 lot of my time when I was at the Ministry working
16 on that funding formula and looking at what -- I
17 mean, along with, you know, some partners,
18 certainly Infrastructure Ontario, and looking at
19 what would be the right incentives in order to
20 improve, I would say, the economies of scale for
21 bed development and redevelopment.

22 JOHN CALLAGHAN: Just to break that
23 down a bit, there was, one, the issue of
24 recognizing the cost of the development in urban
25 areas such as Toronto. I think we were told that

1 an acre of land is about \$7 million, whereas in the
2 north, it might be \$300,000.

3 That was one thing you were doing was
4 recognizing that disparity of cost; correct?

5 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
6 Yeah, certainly acknowledging that there was a
7 difference indeed, yes.

8 JOHN CALLAGHAN: Now, when we talked to
9 IO, we asked specifically whether or not the change
10 from the 4 -- I think it was 4.1 percent cap rate
11 to 7.1 percent cap rate is something they looked
12 at.

13 I don't believe we've ever seen
14 anything that they looked at that cap rate change.
15 Is it your understanding that -- is that correct as
16 far as you recollect?

17 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
18 have to admit, I don't recall this particular --
19 yeah, this particular issue. I mean, there was
20 discussion about what would be the appropriate
21 thresholds, but I could not tell you whether or
22 not -- you know, whether IO established that cap or
23 did some work on that cap. I mean, you'd probably
24 have to go according to what they are telling you.

25 JOHN CALLAGHAN: And you don't recall

1 an independent report by anybody in that regard?

2 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

3 On caps, no.

4 JOHN CALLAGHAN: If we, then, could
5 move along, then, to page 46. This is under a
6 section called -- it talks about legislative
7 agenda. It says:

8 "Over the next 3-6 months, the
9 Ministry of Health and the Ministry
10 of Long-Term Care has committed to
11 an ambitious legislative and
12 regulatory agenda in order to meet
13 the following key priorities."

14 Before I go to those areas, was this
15 part of the Red Tape Commission endeavour?

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
17 suspect it would have been one -- yeah, one element
18 of that. And this would have been -- yeah, this
19 commitment probably predates my arrival.

20 JOHN CALLAGHAN: Well, this slide deck
21 is June, so it predates your arrival for sure. So
22 I just --

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 No, no, but what I'm saying is that if you refer to
25 red tape, I know there was a fair amount of work

1 done on red tape before I arrived, and then there
2 was to be some continuity of that work. But, yes,
3 I mean, I think that red tape would probably be in
4 that scope.

5 JOHN CALLAGHAN: So in this, it says --
6 I'm just going to touch on a few things.

7 "Transformation," it has long-term care, and I take
8 it that probably reflects the commitment for the
9 15,000 new and the 15,000 redeveloped beds?

10 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

11 Yes.

12 JOHN CALLAGHAN: And then under
13 "Budget," it does say:

14 "Emergency services
15 modernization."

16 I know you've told me earlier that that
17 wasn't an issue that was at the forefront prior to
18 the pandemic, but do you recall what this is?

19 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

20 No.

21 JOHN CALLAGHAN: Just so I'm clear,
22 none of this briefing dealt with emergency
23 response. I mean, that wasn't an issue that was
24 top of mind, as it were, prior to the pandemic;
25 correct?

1 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

2 No.

3 JOHN CALLAGHAN: And then it says:

4 "Open for Business: 25%
5 reduction to compliance requirements
6 in legislation, regulation, policies
7 and forms."

8 Was that an issue that you had to
9 address during your time?

10 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

11 Not specifically. I mean, there was -- well, I
12 think we've already discussed what was being done
13 as part of the approach to risk-based -- you know,
14 risk-based approach to inspections.

15 And honestly, Open for Business was
16 very much alive at the time when I was there, but I
17 did not spend -- I did not focus a lot on Open for
18 Business at the time.

19 I mean, there was a plan, and the idea
20 was to, you know, work with the Ministry
21 responsible for Open for Business. And I think we
22 were trying to do what we could, but there's no
23 question that our -- I mean, my priority at the
24 time was really, really to land on this new funding
25 formula, address, you know, some of Justice

1 Gillese's recommendations particularly on
2 medications and other -- lots of other things, but
3 I can't -- I mean, I can't tell you that Open for
4 Business was something that was on my mind in a
5 consistent manner.

6 Open for Business came to my mind a bit
7 later. I think it was more like in winter because
8 we had to -- I think we had to report back to the
9 Ministry, but that's the extent of what I recall.

10 JOHN CALLAGHAN: There are documents
11 that we have regarding the Red Tape Commission.
12 I'll just take you quickly to Red Tape Document 2.

13 So this is just an email then, and this
14 may be exactly what you're thinking of, a
15 November 18th Minister Fullerton copied to you.
16 Gets an email from the Small Business and Red Tape
17 Reduction, and it says in the middle of that
18 paragraph -- if you go down, it refers to the
19 various legislation, and it says:

20 "We are now shifting our focus
21 towards the Spring 2020 Red Tape
22 Package. We ask that you try to
23 identify three items for each of the
24 following categories:

25 Businesses: Actions that will

1 substantially reduce the number of
2 regulations and cost of doing
3 business in the province.

4 Consumers: Actions that focus on
5 making life easier for everyday
6 Ontarians.

7 Big bold ideas: Actions that are
8 transformative, creating long-term
9 regulatory changes for the
10 province."

11 So that was the mandate from the Red
12 Tape Reduction Group; correct?

13 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
14 Yes, it was.

15 JOHN CALLAGHAN: And if I could take
16 you to -- I think it's Document 1 in that package.
17 There are a few other documents, but I don't know
18 if you recall this one. I believe this is January.

19 It's cutting Ontario's Red Tape in
20 Long-Term Care. Would this be a registry of issues
21 or ideas that were being considered?

22 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
23 So this is a document that -- this came from OLTCA;
24 right?

25 JOHN CALLAGHAN: Oh, this one came from

1 OLTCA. I see. Okay. This is their suggestions to
2 you?

3 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

4 Yes. Just so that you know, there is no question
5 that OLTCA but also AdvantAge were -- but OLTCA, in
6 particular, they made a number of representations
7 with government on red tape.

8 And this document, I believe -- I mean,
9 it would have to be confirmed, but I'm pretty sure
10 this document came from OLTCA. It certainly did
11 not come from us. I mean, from --

12 JOHN CALLAGHAN: Thank you. That's
13 clarifying. I'm sure if I looked hard enough, I
14 might have seen that.

15 But if we go to Document 3, this is --
16 is this the type of thing that you would have done,
17 this registry about various items in terms of
18 licensing, et cetera? I won't take you through it,
19 but I just want to make sure I know it.

20 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

21 Yes. I can certainly confirm that when I was at
22 the Ministry -- by the time I arrived at the
23 Ministry, there had already been a streamlining of
24 the public consultation process in order to make
25 it, in fact, more accessible because the old way

1 was face-to-face all the time, and it was not
2 particularly practical, particularly for small
3 changes. So a lot of this now became -- I think it
4 was done through online.

5 The temporary emergency licences, yes,
6 so this was also addressed. And also all of the --
7 the second -- you know, the second category, public
8 meetings, emergency licences, short-term
9 authorizations, and all of those were I think --
10 and they were not -- I don't think the work was
11 done prior to my arrival, but I think it was in
12 effect by the time I got there.

13 And this had a lot to do with
14 sometimes, you know, small changes that may be made
15 in the number of beds. For example, a home may
16 want to have, you know, an additional number of
17 beds or there might be a need for a temporary
18 emergency licence, and it was just meant to make --
19 just facilitate the process without compromising,
20 you know, health and safety.

21 So these were actually very -- you know,
22 they were fairly practical changes that were made,
23 and they were regulatory changes.

24 And then further down the policy, you
25 know, some policy proposals. And I think by the

1 time I left -- risk-based was underway when I was
2 there. The consolidating and streamlining
3 Minister's approvals was also something that we
4 were addressing. So all of that was very much
5 underway.

6 I can't speak to all the specifics, but
7 this is -- you know, that work was very much
8 underway. And if I'm not mistaken now, a lot of
9 that stuff has landed or some of it has landed.

10 JOHN CALLAGHAN: And then if we can go
11 just down to Operational Policy there, licensing.
12 It says:

13 "Amend Long-Term Care Home Act
14 to include both RNs and RPNs based
15 on in-home assessments."

16 And then:

17 "Amend s. 47 of the Regulation
18 to remove the requirement that
19 mandates every person hired as a
20 personal support worker to meet the
21 qualifications for hiring a PSW."

22 And it says:

23 "The Ministry is currently
24 looking at flexible staffing models
25 for LTC homes subject to inspections

1 and patient-based outcomes. Further
2 analysis and consultations are
3 required."

4 I take it what's in yellow was
5 presumably a recommendation from somebody, and
6 what's in red is your response, is that you're
7 looking at it?

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
9 Yeah, what is in red would be, yeah, the response
10 at this time from the Ministry. In other words,
11 that this was being taken under consideration but
12 not done yet.

13 JOHN CALLAGHAN: And in your tenure --
14 this is a January document. I'm assuming it was
15 still in the works when you left, I take it?

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
17 Yes.

18 JOHN CALLAGHAN: Can we just go down to
19 the next section? I just want to ask a question
20 here. It says at the bottom -- just go down a
21 little further, please. There you go. It says:

22 "Other: Repeal the Pay
23 Transparency Act."

24 What is the Pay Transparency Act?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 Oh, my God. You would actually have to address
2 this to Treasury Board, but this is -- first of
3 all, it's a government -- I think it is a
4 government-wide piece of legislation. I would
5 assume that it applies to public and broader public
6 sector, I think.

7 And within that, there were
8 compensation frameworks that were established
9 depending on the sector, but really you would -- I
10 don't want to, you know, say more because, you
11 know, the technical aspects of this would have to
12 be taken up by someone else.

13 But I think the notion here is that the
14 Ministry of Long-Term Care did not have the
15 authority to repeal the Pay Transparency Act
16 because it's not an Act that fell under its
17 authority.

18 JOHN CALLAGHAN: Okay. With the
19 remaining time, I'd like to just cover your
20 engagement with COVID.

21 I wonder if we'd start by could you
22 tell us when you first became aware that COVID
23 would be an issue of concern in the long-term care
24 community?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 It's not immediately of concern to the long-term
2 care community. We became aware of COVID very
3 early January through -- you know, through updates
4 which the Chief Medical Officer did provide to a
5 joint Minister of Health and Minister of Long-Term
6 Care table at the time which was not -- this was a
7 joint management table to deal with, you know,
8 issues that cut across our two Ministries.

9 So not necessarily early in January
10 dedicated to the pandemic, but at that particular
11 table, I would say, you know, first or second week
12 in January, probably first week in January,
13 certainly I remember Dr. Williams, you know,
14 raising the issue of COVID, giving us an update,
15 and at the same time -- and obviously following
16 closely what WHO was reporting at that point.

17 JOHN CALLAGHAN: This is a meeting of
18 whom? I'm not sure I caught that.

19 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
20 Well, I can't even remember the name of the table.
21 It was just a joint -- it was a joint committee of
22 senior executive of Ministry of Health and Ministry
23 of Long-Term Care.

24 This table had actually been set up, I
25 think, at the time when I arrived as deputy, and it

1 was very much in the context of the reform of
2 health care, so the broader reform agenda of the
3 health care system and recognizing that long-term
4 care was on the continuum, so we were -- you know,
5 we were members of that table.

6 And from time to time -- not all the
7 time, but from time to time, Dr. Williams would
8 come in and provide, you know, an update on Public
9 Health.

10 And then when COVID -- when news
11 around, you know, this mysterious virus began to
12 circulate, then this is when the updates became --
13 I mean, were regular, and they were provided at
14 least -- you know, as far as I was exposed to those
15 updates, it was at that table and that that table
16 sort of morphed into the health command table.

17 JOHN CALLAGHAN: I must say we haven't
18 got any documents that I've been able to locate in
19 respect to the table to which you refer. I don't
20 know what I have, but let me show you what I do
21 have, and perhaps you can tell us what you recall.

22 If we can go to Document 5, which is
23 the one right there. So this is January 21st, and
24 this is the -- you'll see in the middle, if we go
25 down a little bit, it's supposed to be...

1 "It's spread to the US and the
2 Minister of Health is convening on
3 it. I spoke to the Deputy Minister
4 at MOH and she thinks we should set
5 up a briefing."

6 And there's an agenda, and it's the
7 "Coronavirus - Emergency Preparedness, January 23
8 or 24."

9 Now, I'll point out that you're not
10 included nor is anybody else included in this
11 briefing from the Ministry of Long-Term Care.
12 Deputy Minister Angus is an optional guest.

13 They do, however, eventually invite
14 you, and we have some emails to that effect.
15 There's an email -- for example, there's an email,
16 number 7, that points out -- at Document 7 that
17 basically says that you've been invited. You'll
18 see Jessica Georgakopoulos is there. It says:

19 "The Ministry of Health will
20 brief the PO on Friday at 11 am. We
21 advised Cabinet Office to include
22 you in the briefing as well."

23 Do you know whether you went to that
24 briefing?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 It's very possible that I was at the briefing, but
2 I cannot confirm for sure. But I would imagine I
3 would have been invited.

4 JOHN CALLAGHAN: The briefing of which
5 you're talking about, there's a separate table that
6 you're referring to just with the Ministry of
7 Health and Ministry of Long-Term Care?

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
9 No, no, no. So -- well, yeah, that briefing would
10 not have -- you know, the briefing that is referred
11 to now here looks like it's a briefing basically
12 being set up by Cabinet Office, you know, for the
13 benefit of Premier's Office but also, you know, of
14 other participants would be held -- I mean it would
15 be led by the Minister of Health.

16 Because at that time, really the focus
17 was not just on what people knew or, in fact, what
18 people did not know about the virus, but also
19 potential impact on, you know, hospitals and so on.

20 So -- yeah, so that's a separate --
21 that's a complete -- this is what I would call, at
22 least at that time, a one-off on coronavirus.

23 The command table, you know, was
24 something different. I mean, when it was set up,
25 it was set up to specifically focus on COVID. I

1 attended just a couple of meetings, and then my
2 colleague, Richard Steele, took over.

3 MR. JOHN CALLAGHAN: I'm going to show
4 you another document --

5 LEAD COMMISSIONER FRANK MARROCCO:
6 Excuse me, Mr. Callaghan. Was there a group
7 composed of yourself or your Ministry and the
8 Ministry of Health that received a briefing from
9 Dr. Williams about this virus that originated in
10 China?

11 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
12 don't recall a briefing. I certainly recall
13 updates from Dr. Williams.

14 LEAD COMMISSIONER FRANK MARROCCO:
15 Okay.

16 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
17 It's not to say, sir, that there would not have
18 been a briefing, but I can't -- I have to be, you
19 know, honest with you, and I can't remember a
20 briefing, but there were certainly ongoing
21 discussions in the early stages about the evolution
22 of the virus.

23 LEAD COMMISSIONER FRANK MARROCCO: Was
24 there any written component to this briefing --

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 What I -- sorry, sir.

2 LEAD COMMISSIONER FRANK MARROCCO: --
3 or these briefings?

4 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
5 Yeah, what I recall early on, they were verbal
6 updates.

7 JOHN CALLAGHAN: May I show you
8 Document 9, and this is in February. So this is
9 after the period I think you were talking about.

10 I don't know if this is what you're
11 talking about, and I have no indication that this
12 went to the Ministry of Long-Term Care, but it's a
13 note called -- if go down a little bit further,
14 Jennifer.

15 "9 AM Call - Health Stakeholder
16 Call."

17 Were you involved in any of these types
18 of calls, do you recall, with Mr. Shingler?

19 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
20 was not, but I know that my -- I don't know if they
21 were all January 26, but I know for a fact that
22 those stakeholder calls eventually involved MLTC or
23 LTC stakeholders as well as, you know, staff from
24 the MLTC, particularly the operations folks.

25 JOHN CALLAGHAN: So if you look at this

1 agenda, and I'll just take you to Item 3, it says:

2 "The focus of our activities
3 has been on supporting the readiness
4 of hospitals and the public health
5 system."

6 Is that consistent with your
7 recollection, that the focus at the time was
8 largely on hospitals?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
10 think it's fair to say that, yeah, the -- I mean,
11 early on, the concern was on hospitals and the
12 impact. And, yeah, that's certainly my
13 recollection.

14 JOHN CALLAGHAN: And if we could go to
15 Document 18. This is an email regarding supply
16 chain and the stockpile?

17 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
18 Yeah.

19 JOHN CALLAGHAN: Were you aware that
20 the stockpile had been largely destroyed?

21 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
22 Not in those definitive terms at that time. In
23 fact, I was -- I mean, issues around PPE were now
24 emerging.

25 And what I do -- I do remember that the

1 sector, the LTC in particular but also AdvantAge,
2 had -- you know, indicated some growing concerns on
3 the part of operators regarding the -- not just the
4 availability of the supplies but even -- well,
5 just -- yes, as you said, I mean, basically the
6 state of supplies, and I think the state of the
7 inventory at the time.

8 JOHN CALLAGHAN: Right. I mean, we've
9 heard -- it's no surprise. We've heard that I
10 think 90 percent of the stockpile had been
11 destroyed by that time and not replaced.

12 I take it it's about this time because
13 in this email from Brian Pollard to yourself, he
14 refers to the issue becoming a broader stakeholder
15 issue today because of their concerns about
16 stockpiling and perceived supply restrictions.

17 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
18 Yes.

19 JOHN CALLAGHAN: So the concern,
20 then -- and I understand the concern is a
21 multifaceted. It's, one, trying to get PPE, but
22 also the World Health Organization is encouraging
23 people not to hoard it because others need it as
24 well. That was your understanding?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

1 Yes, because there was --

2 JOHN CALLAGHAN: A world shortage as it
3 were?

4 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
5 Right.

6 JOHN CALLAGHAN: So if we can then go
7 to Document 24, and this is an email that attaches
8 to it some notes with respect to a meeting the
9 Minister would have with the Ontario Nurses
10 Association. And the email itself is dated
11 February 12th, 2020.

12 And would you have gone to the meeting
13 with ONA?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 No.

16 JOHN CALLAGHAN: Okay. But I just want
17 to ask you whether this would have been the
18 predominant view at that time on February 12th. If
19 you go to the bottom of page 2 of the -- you'll
20 see -- as this comes up, you'll see these are the
21 minutes to the meeting note. If you go down to the
22 bottom of page 2, it says."

23 "The risk to long-term care
24 homes is low since residents can be
25 screened during the admission and

1 readmission process and it is
2 unlikely that long-term care home
3 residents will have travel history
4 to China."

5 This is a key message. Was that the
6 view of the long-term care Ministry at the time,
7 that as of mid-February, the risk of COVID will be
8 low in long-term care homes?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

10 I'm trying to remember the -- if I'm not mistaken,
11 the notion that risks of community transmission was
12 low, this belief went on for a while, so this
13 seemed to be the prevalent belief.

14 I can't speak specifically to long-term
15 care homes. I mean, there's no question that, you
16 know, some stakeholders would have been concerned,
17 and certainly ONA would have been concerned.

18 I think that the long-term care was, you
19 know, basically following pretty much what it was
20 hearing and I think had already initiated some, you
21 know, screening procedures. And, you know, there
22 were already some guidance, I think, that had
23 already been provided to long-term care.

24 I don't think there was at that time any
25 realization of how serious this might be for

1 long-term care residents, while at the same time
2 acknowledging that long-term care -- you know, a
3 congregate setting such as long-term care, you
4 know, can be severely exposed to communicable
5 diseases.

6 So, you know, I don't want to -- I
7 mean, I think it was just -- it was still very much
8 unclear. There was still this notion that travel
9 history was the critical factor.

10 And then if I recall, things kind of
11 changed almost overnight. By the time you get to
12 end of February, early March, all of a sudden, you
13 know, like, the horse is out of the barn, and it's
14 no longer tied to travel.

15 JOHN CALLAGHAN: Let me then take you
16 to Document 29.

17 LEAD COMMISSIONER FRANK MARROCCO: Just
18 before you leave that, this document references a
19 person who has or may have a communicable disease.

20 Was there any consideration of the fact
21 that while the resident may not have a communicable
22 disease, the person coming to see the resident or
23 coming to work in the residence may have a
24 communicable disease?

25 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I

1 have to admit, sir, I can't really speak to this.
2 I'm not sure there was.

3 LEAD COMMISSIONER FRANK MARROCCO:

4 Okay.

5 JOHN CALLAGHAN: Well, if you go to the
6 next page, they're talking about provide pertinent
7 information, and it says:

8 "What support is being provided
9 to Long-Term Care Homes related to
10 COVID-19?"

11 It refers to:

12 "The Minister of Health
13 published a guidance."

14 And then on the first dot, it refers
15 to:

16 "Passive screening (signage)
17 has been provided by the Ministry of
18 Health to be posted on building
19 entries."

20 And then there is a screening, and it
21 says:

22 "If a resident screens positive
23 for COVID-19, they should be
24 instructed to wear a procedure mask
25 and placed in a single room, and if

1 necessary, a health care provider in
2 the long-term care home can conduct
3 a clinical history and visual
4 assessment using routine droplet."

5 It seems to me that the focus is on --
6 perhaps at this point, on residents who might be
7 ill as opposed to workers.

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
9 Yeah, it may be, you know, a fair assessment. I
10 also think that we just need to keep in mind that
11 at the time, there was a whole lot we did not know
12 about how this virus spread and what happened with
13 asymptomatic versus symptomatic.

14 So I'm not trying to make excuses. I'm
15 just saying that it may have been a blind spot just
16 out of lack of understanding of what this virus was
17 all about and based on previous experience.

18 JOHN CALLAGHAN: If we can go to
19 Document 29, which I think maybe is -- makes the
20 point that you were just talking about. And this
21 is an agenda of, I take it, your -- you have a
22 weekly meeting with the Minister?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Yes.

25 JOHN CALLAGHAN: If you go down to the

1 agenda items, it's -- this is an observation of the
2 absence, not of the...

3 You'll see that there's funding
4 packages, electronic clinical supports, minor
5 capital, community paramedicine, public inquiry,
6 staffing study advisory group.

7 Would it be your recollection that as
8 late as February 24th, you know, the COVID issue
9 would not have been such that it'd make the weekly
10 meeting?

11 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
12 I'd like to -- I just want to make sure that I
13 understand which document this is.

14 JOHN CALLAGHAN: It says "Meeting
15 Agenda," and it says "Minister's Office Weekly -
16 Policy Meeting."

17 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
18 Yeah, so this is a meeting. The Minister would not
19 have been at that meeting, I mean, just by way of
20 clarification.

21 So this is a regular weekly meeting,
22 and I did not always attend those meetings, but I
23 may have attended that one. And it was a weekly
24 meeting between the Ministry folks and the
25 Minister's office on various issues that were -- or

1 of files that were under development or underway.

2 JOHN CALLAGHAN: All right. But would
3 you have expected that if COVID was a major concern
4 like it is today, that it would be on the agenda?

5 I mean, I was illustrating your point
6 you were making, that it may not have been of a
7 significant focus.

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
9 think it -- you know, it was significant as far as
10 what we were hearing through the media, but it
11 was -- you know, it was still very much unsettled.

12 It was still a bit blurred. That would
13 be my word. But as you know, by the time you got
14 to the end of the month, early March, all of a
15 sudden it just took off, so...

16 JOHN CALLAGHAN: So then there is
17 the -- and then the next document is Tab 31, and I
18 think you had mentioned that you went to a command
19 table meeting.

20 At this point, the chair is Deputy
21 Minister Angus, and you're one of the invitees. Is
22 that your understanding at that point?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
24 Yeah, I was actually a member.

25 JOHN CALLAGHAN: You were a member.

1 And that was chaired by -- this is the one chaired
2 by Deputy Angus; correct?

3 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

4 That's it, yes.

5 JOHN CALLAGHAN: All right. And do you
6 remember how many of these meetings you were able
7 to attend before you left the Ministry?

8 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
9 may have -- you know what, it's a bit unclear in my
10 mind. I may have attended maybe two, but this
11 would have been the real first -- this was the
12 kickoff meeting because I remember, you know, the
13 terms of reference were circulated, adopted.

14 And, you know, this was also the first
15 command table that was set up, and then, of course,
16 it evolved later.

17 JOHN CALLAGHAN: We saw a presentation
18 the other day where they did a structure of what
19 was involved, and there wasn't at this time a
20 long-term care table separate from the health
21 command table. Was there ever discussion about a
22 long-term care table?

23 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

24 Not at that particular time.

25 JOHN CALLAGHAN: And then if I could

1 just take you to Document 34. Now, this is just
2 March 1st, and it's an email that makes its way to
3 Helen Angus. And you're not on it, but the Chief
4 of Staff is, and I just wondered whether you heard
5 about this.

6 If you go down, this is an email from
7 Donna Duncan, who we'll all remember as the
8 president of OLTCA. And she reports that:

9 "Lisa Levin" -- who we also
10 know as the president of
11 AdvantAge -- "is quite agitated and
12 has been sending a flurry of email
13 messages to a host of individuals.
14 Her anxiety in large part is
15 anchored in the fact that any
16 messages she and I have sent to the
17 ADM at LTC have been responded to
18 with a direction to simply refer any
19 issues to Public Health. Also, we
20 noted that long-term care was absent
21 from the first 2 collaboration
22 meetings and that no one from
23 Ministry of Long-Term Care was at
24 the collaboration table for the 3rd
25 meeting that we did get invited to."

1 Were these concerns of Ms. Levin and
2 Ms. Duncan brought to your attention?

3 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

4 I'm just searching my mind. Yes, I think they
5 were. The one thing I would say is that the
6 response of the Ministry was very much according to
7 the protocol, the communications protocol that had
8 been established at the time, that any inquiry with
9 respect to, you know, COVID in relation to Public
10 Health had to be -- you know, had to be directed or
11 redirected to the Minister of Health.

12 So I think that is the reason why, you
13 know, they would -- you know, they were getting
14 their information to the Minister of Health.

15 With respect to the collaboration
16 tables, I think there was a concern, I mean, that
17 was brought to my attention that maybe long-term
18 care stakeholders were not necessarily seen as
19 central to, you know, the discussion around the
20 virus.

21 I think some of it -- again, I'm not
22 trying to find excuses here, but I think some of it
23 had very much to do with the fact, again, that the
24 focus was very much on the impact -- the impact on
25 hospitals.

1 And I think later on, the long-term
2 care stakeholders were included into those -- I
3 think were included into those collaboration
4 meetings in order to make sure that they would be
5 on the same page.

6 And the concern or at least the point
7 would have certainly been, you know, raised that it
8 would be important to have representation of the
9 long-term care stakeholders given the impact on
10 long-term care homes.

11 JOHN CALLAGHAN: But that
12 representation would have happened after you left
13 the Ministry; correct?

14 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
15 Yeah, I'm not sure exactly when, but I know when I
16 left, that there was -- the point had been made,
17 and the outreach was going to be done.

18 JOHN CALLAGHAN: I'm coming to an end
19 here. As you can appreciate -- sorry, there's
20 actually a -- there's another meeting you went to.
21 Just one sec.

22 So if I could just take you to -- I'm
23 not sure you -- I believe you were at it. There is
24 a note about a March 6th Public Health coordination
25 telephone conference. Would you have attended

1 that?

2 DEPUTY MINISTER MARIE-LISON FOUGÈRE: I
3 don't think so.

4 JOHN CALLAGHAN: Okay. Can you advise
5 the Commissioners whether you have any knowledge as
6 to why you were moved on March 8th from the
7 Ministry of Long-Term Care in the middle of a
8 pandemic to another Ministry?

9 DEPUTY MINISTER MARIE-LISON FOUGÈRE:
10 Well, I think as I told you, I'm not in a position
11 to surmise about that. I mean, Deputy Ministers
12 get moved all the time, and you go wherever you are
13 needed.

14 And me being basically a policy-making
15 leader, I was asked to take on this new portfolio
16 for the purpose of filling a gap. So that's the
17 primary reason. If you want to know, you'd have to
18 ask the Secretary of Cabinet.

19 JOHN CALLAGHAN: Thank you. Those are
20 my questions, Mr. Chair.

21 LEAD COMMISSIONER FRANK MARROCCO:
22 Well, I don't think we have any questions. So
23 thank you, Ms. Fougère, for coming and responding
24 and giving us the information you were able to give
25 us. Thank you very much.

1 DEPUTY MINISTER MARIE-LISON FOUGÈRE:

2 You're very welcome.

3 JOHN CALLAGHAN: Thank you very much.

4 COMMISSIONER ANGELA COKE: Thank you.

5 LEAD COMMISSIONER FRANK MARROCCO:

6 Thank you.

7

8 -- Adjourned at 12:53 p.m.

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1 REPORTER'S CERTIFICATE

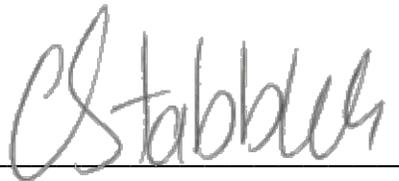
2
3 I, CARISSA STABBLER, Registered
4 Professional Reporter, certify;

5
6 That the foregoing proceedings were
7 held remotely via Zoom videoconference at the time
8 therein set forth, at which time the witness was
9 put under oath by me;

10
11 That the testimony of the witness
12 and all objections made at the time of the
13 examination were recorded stenographically by me
14 and were thereafter transcribed;

15
16 That the foregoing is a true and
17 correct transcript of my shorthand notes so taken.

18
19 Dated this 9th day of February 2021.

20
21 
22 _____

23 NEESONS, A VERITEXT COMPANY

24 PER: CARISSA STABBLER, RPR

25 COURT REPORTER

C L A R I F I C A T I O N S

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Page 8, line 14: "chart at your Ministry" not
"chart of your ministry"

Page 14, line 24: "It" not "It's"

Page 20, line 4: "inscribed" not "ascribed"

Page 25, line 6: "calculus" not "catalyst"

Page 48, line 12: "upgrading" not "operating"

Page 50, line 3: "2020" not "2019"

Page 50, line 16: "partner" not "party"

Page 53, line 1: Strike "onto us"

Page 62, line 12: "during the time I was there"
not "by the time I got there"

Page 66, line 5: "Ministry" not "Minister"

Page 73, line 1: "OLTC" not "LTC"

C L A R I F I C A T I O N S

(Continued)

Page 83, line 11: "Ministry" not "Minister"

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