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# Standing Committee on Access to Information, Privacy and Ethics

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Chair: Mr. Pat Kelly





## Standing Committee on Access to Information, Privacy and Ethics

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• (1545)

[English]

**The Chair (Mr. Pat Kelly (Calgary Rocky Ridge, CPC)):** I call this meeting to order.

[Translation]

Welcome to meeting No. 39 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[English]

Today's meeting is taking place in a hybrid format, pursuant to the House order of June 23, 2022, and therefore members can attend in person in the room and remotely by using the Zoom application.

We're running two panels today. We're having to start late due to votes. I will probably run this panel a little longer than the second one just because we have more witnesses in the first one. I'll probably be pretty merciless on the clock. We'll get through two full rounds and opening statements on the first hour and then we will try to transition as quickly as possible to the second panel.

I would like to welcome our witnesses now for the first hour.

From the Department of Public Works and Government Services, we have François Bernier, Stéphan Déry, Lorenzo Ieraci, Teresa Maioni and Lyne Roy. We also have, from the Canada Border Services Agency, Scott Millar, Jonathan Moor and Dan Proulx.

I hope that I have identified all of our witnesses today. With that, I would like to get started.

Mr. Déry, the floor is yours for up to five minutes.

**Mr. Stéphan Déry (Assistant Deputy Minister, Real Property Services, Department of Public Works and Government Services):** Good afternoon, Mr. Chair and committee members. Thank you for inviting Public Services and Procurement Canada to appear before you today to discuss the topic of the Saint-Bernard-de-Lacolle border crossing.

I'm joined today by François Bernier, director general for the Quebec region, and Lorenzo Ieraci, assistant deputy minister, policy, planning and communications branch. At the request of the committee, also present today are Lyne Roy, senior director of our access to information and privacy team, and Teresa Maioni, also of our access to information and privacy team.

Before we begin, I would like to acknowledge that the land on which we gather is the traditional land and unceded territory of the Algonquin Anishinabe people.

Public Services and Procurement Canada, or PSPC, procures goods and services on behalf of departments and agencies throughout government. Each year, the department buys some \$22 billion worth of goods and services, including construction, from nearly 10,000 suppliers. In addition to this and other roles, the department manages one of the largest and most diverse portfolios of real estate in the country. We are the Government of Canada's real estate expert.

The Canada Border Services Agency, or CBSA, is responsible for providing integrated services that support national security and public safety priorities and facilitate the flow of persons and goods at federal border crossings.

As this committee is aware, since the summer of 2017, a very high number of asylum seekers have arrived at the Saint-Bernard-de-Lacolle crossing. This has resulted in the need for the CBSA, along with its partners the Royal Canadian Mounted Police and Immigration, Refugee and Citizenship Canada, to increase their infrastructure to process claims and provide services to those seeking asylum.

On top of this, the COVID-19 pandemic added increased pressure on infrastructure and service delivery. On behalf of the CBSA and IRCC, to date PSPC has awarded some 30 contracts for goods and services to manage an increase in asylum seekers at the crossing. All contracts related to the crossing have been publicly disclosed. The majority of these contracts were competitively awarded for an approximate total value of \$108,560,000.

The department has also negotiated several land and service lease agreements in the immediate vicinity of the Saint-Bernard-de-Lacolle port of entry, as required by CBSA and IRCC. These lease agreements are used for a range of activities, including a triage centre, dorms, office space and parking, as well as for the hotel adjacent to the border crossing. The approximate total value of these land and service leases is approximately \$28 million.

The location and requirement for leases were determined by our clients, CBSA and IRCC, to meet their operational requirements for facilities close to the border to deal with the influx of asylum seekers. All leases for the program in Saint-Bernard-de-Lacolle have been disclosed. However, in accordance with market practices, the specific value of the leases has not been disclosed, given the commercially sensitive nature of this information.

Nonetheless, we have noted the value of the leases at \$28 million. We have provided this committee, through the clerk, with the document that breaks down the value of the leases by client. This information also breaks down the value of the leases as well as the lease improvements that were made to the property at the request of our client.

In supporting our colleagues at CBSA and IRCC, we worked to meet their operational requirements at the time when the number of asylum seekers was increasing. In this regard, we worked closely with the CBSA, IRCC, and other federal partners to find space in the immediate vicinity of the border crossing and to complete the necessary lease improvements to ensure that the needs of our client departments—in this case, CBSA and IRCC—were met so that they could properly serve and protect Canadians.

Through our activities, we strive to meet our clients' operational requirements while ensuring value for money for Canadian taxpayers. We also strive to undertake our activity in a fair and transparent manner, while ensuring we meet obligations under the Access to Information Act and Privacy Act.

• (1550)

Public Services and Procurement Canada will continue to work with federal partners to support their needs in relation to the Saint-Bernard-de-Lacolle border crossing.

My colleagues and I will be pleased to answer your questions regarding our support to federal partners.

**The Chair:** Thank you.

Now we'll have an opening statement from the Canada Border Services Agency.

I'm not certain which official is going to deliver that statement, but whoever wishes to do so may start now. You have up to five minutes.

**Mr. Jonathan Moor (Vice-President, Finance and Corporate Management Branch, Canada Border Services Agency):** Good afternoon, Mr. Chair and committee members.

I'm very pleased to speak to you today and provide some information on the roles and responsibilities of the Canada Border Services Agency with regard to refugee asylum seekers and to discuss more specifically the agency's operations at the Roxham Road crossing.

My name is Jonathan Moor. I am the vice-president of the finance and corporate management branch and the CBSA's chief financial officer. I am joined today by my colleagues Scott Millar, vice-president of the strategic policy branch, and Dan Proulx, executive director of information sharing, access to information and the chief privacy office.

As you are aware, the number of refugee asylum claimants has grown significantly in recent years. The CBSA has needed to mobilize resources from across Canada to help address these increases, in particular since 2017 with the arrival of large numbers of claimants at Roxham Road.

Border security and integrity is a shared mandate between the CBSA and the RCMP. The CBSA is responsible for enforcing legislation at designated ports of entry. The RCMP is responsible for enforcing the law between those ports of entry. It is important to note that the CBSA encourages all refugee asylum claimants to apply to enter to Canada at a designated port of entry.

However, the number of between-the-ports arrivals, sometimes referred to as "irregular arrivals", has continued to increase. Since January 1, 2022, the CBSA has already processed over 26,500 irregular arrivals in Quebec, mostly at the Roxham Road crossing.

Those who enter in between designated ports of entry—in this case, at Roxham Road—are intercepted by the RCMP and brought to the nearest CBSA port of entry, which is at Saint-Bernard-de-Lacolle. Then they are processed by CBSA officers and they make a claim for asylum. The role of the CBSA is to determine the admissibility of a person and the eligibility of the claim under the Immigration and Refugee Protection Act.

All refugee claimants, whether they arrive at a designated port of entry or between the ports of entry, undergo a health and security screening. The security screening is a crucial part of the overall assessment of whether a person is admissible to Canada. The process ensures that anyone who wants to come to Canada has not committed serious crimes and does not pose a health or safety risk to Canadians. We have the appropriate resources in place to ensure that no one leaves the port of entry until the security screening has been completed.

Our border services officers work closely with other law enforcement agencies, both nationally and internationally, to help identify and investigate persons who may be inadmissible to Canada. In some cases, officers may arrest, detain and remove persons who are inadmissible. Since 2017, there have been over 18,800 irregular arrivals in Quebec, and so the numbers were too high to process at the agency's existing port of entry facilities. Therefore, to ensure proper screening and to accommodate the large number of refugee claimants at Roxham Road, it was necessary for the CBSA to invest in additional processing and accommodation infrastructure in partnership with our colleagues at PSPC.

Since 2017 this infrastructure has been provided through a number of temporary structures, mainly by using mobile trailers for both accommodation and processing facilities. The leases on these mobile facilities are due to expire at the end of the year, so a decision was taken to consolidate the operations into two existing buildings to house all the functions of the regional processing centre.

In October 2021, the agency announced a contract to retrofit these buildings situated at the Saint-Bernard-de-Lacolle port of entry. The work is due to be completed shortly and will help to ensure adequate waiting space and humanitarian assistance while refugee asylum claimants are being processed at the border. Once the CBSA has completed its processing, the claimants' longer-term accommodation requirements fall under the responsibility of the IRCC and the provinces.

The CBSA is committed to treating all people who are seeking asylum in Canada with compassion and ensuring they are afforded a due and fair process under the law. We will also continue to ensure the security and the safety of all Canadians by following public health guidelines at the border.

I hope this information has been helpful to you. I will now make myself and my colleagues available to answer any of your questions.

Thank you.

• (1555)

**The Chair:** Thank you.

We'll begin with the six-minute rounds.

We'll go first to Monsieur Paul-Hus. You have up to six minutes.

[*Translation*]

**Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC):** Thank you, Mr. Chair.

Good afternoon, ladies and gentlemen. I will be brief.

On your screen, you should see the map of the land that I am holding here. I am showing it to you so that no one will get mixed up. You can see where the Roxham Road port of entry is, where migrants seeking asylum arrive and are then driven to the camp set up beside the official Saint-Bernard-de-Lacolle border crossing.

In the camp, there are sites, trailers, infrastructure, and Mr. Guay's hotel that we are familiar with. I have been on the land at least three times, on both the American and Canadian sides, so I understand quite well how it works. Mr. Guay's land is located right beside the official Saint-Bernard-de-Lacolle border crossing, so it is easy for everyone to install the facilities and accommodate asylum seekers.

There is a problem, however. I wonder how a contract can be negotiated when the landowner can ask for any price he likes. It is hard to understand the rules for negotiating the contract in question. How can a fair and equitable price be established when we are told there is no other location available?

If we look at the map, though, we can see that there is other land where certain things could have been installed, like trailers or other facilities, for less money.

First, how can the price asked be explained?

Second, you say there is sensitive information concerning this land, information that cannot be explained publicly. What is it about that information that is so sensitive?

**Mr. Stéphan Déry:** That is a very good question.

For either buildings or land, Treasury Board policy always requires that they be leased at a price that corresponds to the market value. We therefore have an entire team that assesses the market value in a particular location. Then we negotiate, particularly when there is a single owner or there is not a lot of space.

Some of our commercial leases are negotiated by mutual agreement, directly with the owners. It is commonly the case that for the kind of space required and the market where the desired buildings are located, there are not enough owners and so there is no competition. However, we always produce a market analysis report and retain third parties in the private sector to determine the market value.

**Mr. Pierre Paul-Hus:** I understand that you negotiate on a mutual agreement basis. However, I would like you to confirm one thing. According to my information, the St-Bernard hotel with which we are all familiar, adjacent to the border crossing, has been leased full-time by the Government of Canada since 2017.

I am told that from 2017 to 2020, it cost \$15 million, or about \$5 million per year, to rent the rooms. I imagine it is still being leased today. Is that correct?

As well, has the hotel been used? When I visited, there were never any refugees there. There were 500 spaces in the trailers being used as dormitories. In the summer, the government had even set up tents for 3,000 people that were never used.

Has the hotel ever been used, and is the price I cited correct?

**Mr. Stéphan Déry:** I'm going to turn the question over to Mr. Bernier, who works on this as director general for the Quebec region.

**Mr. François Bernier (Acting Regional Director General, Quebec Region, Department of Public Works and Government Services):** I am going to come back to your first question, on how we made sure the price paid for the location in Saint-Bernard-de-Lacolle was reasonable. The department has its own leasing and property management agents, who do an initial review of the file.

In this specific case, our clients had presented a unique need: to be all together near the border crossing. As you said, Mr. Guay owns a majority of the land, and he was certainly the only one prepared to support our clients in 2017, when this situation started. Our experts therefore negotiated a lease by mutual agreement, as in a majority of real estate lease cases across Canada.

• (1600)

**Mr. Pierre Paul-Hus:** Has it actually cost the Government of Canada \$5 million per year to lease the hotel, which has been empty for five years?

Can you confirm that the hotel has not been used since the start?

**Mr. François Bernier:** I do not have the exact value of the lease with the hotel. On the question of use, the hotel was in use the last time I was on site, a few weeks ago. However, I cannot tell you what the situation was for the entire term of the lease.

**Mr. Pierre Paul-Hus:** To help us in our work, we would like to get a report on the use of the hotel, which was not used for anything in the first years.

There is also the land where the trailers we all know about were installed, with the reception centre, the cafeteria, and everything else. How much is the government paying for all that?

**Mr. François Bernier:** As my colleague said, the leases signed with Mr. Guay total \$28.13 million. Of that amount, \$13.4 million comes from the Canada Border Services Agency for the land and the adjacent land.

**Mr. Pierre Paul-Hus:** Do you really think those amounts are justified for a simple lease of land? The government did not buy the land, it just leased it. We are talking about millions of dollars, which is a lot of money for land that is not being used for much.

**Mr. François Bernier:** That money is not just for the lease, it also covers the leasehold improvements my colleague spoke of in English, that is, the improvements required in order to meet our client's operational needs.

[English]

**The Chair:** Thank you.

Now we go to Mr. Fergus for up to six minutes.

[Translation]

**Hon. Greg Fergus (Hull—Aylmer, Lib.):** Thank you, Mr. Chair.

I would first like to thank our witnesses, both those who are with us in person and those who are appearing virtually.

I would like to thank you for the work you are doing as public servants. I know your work is difficult because of the speed with which the situation changes, but you are doing it well. It is important that Canadians be satisfied of that.

Mr. Déry and Mr. Bernier, you talked about the market value of the land leased from Mr. Guay. Without disclosing details of a commercial nature, did your consultants tell you that the costs of leasing that were negotiated corresponded completely to the market value of the land?

**Mr. Stéphan Déry:** Thank you for the question.

As my colleague said, we offer an optional service. Our clients tell us their needs, we analyze them, and we look at what is offered on the market. We then ask experts in the department and outside experts to look at all the options. In this case, it was Mr. Guay's properties, near Saint-Bernard-de-Lacolle, that met the client's requirements, so we negotiated with him on a mutual agreement basis.

For the Saint-Bernard-de-Lacolle site, given the time frame, the location of the infrastructure and the leasehold improvements that had to be made, in particular the connection to the electrical grid and the construction of dormitories, for which Mr. Guay and his companies put in bids, we are satisfied that we got a reasonable price and got Canadians value for their money.

**Hon. Greg Fergus:** Thank you.

I have only three minutes left and I am going to move on to another question right away.

Canada has an independent, professional public service. Did the office of the then minister play a role in awarding this contract or in the negotiations to determine the market value of the land?

• (1605)

**Mr. Stéphan Déry:** I am going to let you answer, Mr. Bernier, because you were working there in 2017.

**Mr. François Bernier:** To my knowledge, there was no interference by any office with the members of our department's team to have the location chosen be the one we are talking about.

Our experts took into account the needs of our colleagues at the Canada Border Services Agency, the Royal Canadian Mounted Police, and Immigration, Refugees and Citizenship Canada in submitting the proposal to them that would meet their needs as best possible and that offered Canadians the best value for their money.

**Hon. Greg Fergus:** I am going to dig a little deeper.

I imagine there is a threshold at which a contract has to receive ministerial approval. With respect to leases and to rental and services contracts, was this \$28 million over that threshold, and what is that threshold?

**Mr. François Bernier:** No. The amounts spent did not reach that threshold, far from it.

My colleague can tell you the exact threshold above which the minister's approval is needed in connection with a lease.

**Mr. Stéphan Déry:** For leases and leasehold improvements, the threshold is \$36 million. It is therefore not necessary to get the approval of the minister or her office.

**Hon. Greg Fergus:** For clarification, the total value of the leases for these facilities is \$28 million, which is \$8 million below that threshold, if I understand correctly.

**Mr. Stéphan Déry:** That is correct. We are talking about nine leases and leasehold improvements to those nine locations over a period of five years.

**Hon. Greg Fergus:** Has this delegation of powers existed for a long time?

**Mr. Stéphan Déry:** It has existed for several years.

**Hon. Greg Fergus:** So it existed well before this contract was awarded.

**Mr. François Bernier:** Absolutely. It existed well before.

**Hon. Greg Fergus:** Once again, thank you for your testimony.

Mr. Chair, I will yield the floor.

[English]

**The Chair:** Thank you.

We will go next to Monsieur Villemure for six minutes.

[*Translation*]

**Mr. René Villemure (Trois-Rivières, BQ):** Thank you, Mr. Chair.

I would like to thank the witnesses for being here today.

I would have liked to know the value of the amounts in issue a little more than an hour before the committee's meeting. That does not give us time to take a good look at things.

Nonetheless, Ms. Roy, I would like to ask you how much time the Access to Information Act gives you to reply to an access to information request.

**Ms. Lyne Roy (Senior Director, Access, Privacy, Transparency and Mail Services, Department of Public Works and Government Services):** Thank you for your question.

Normally, we have 30 days, but exceptions may apply. For one thing, we can request an extension of the time based on special circumstances, in the case of certain requests. The way each request is processed depends on its scope and the documents we receive.

**Mr. René Villemure:** In an article published in *La Presse* on January 14, 2022, Vincent Larouche reported that the time needed for replying to his request at that time was 240 days. Is that kind of time limit justifiable?

**Ms. Lyne Roy:** Once again, it depends on the number of documents involved and the number of access to information requests the organization receives.

Each request is processed based on its priority and a lot of other factors. One situation that arises is that consultations are necessary, and then the other institutions and third parties concerned have to be given the time they need to provide us with the required information. In those cases, yes, it can take up to 240 days to reply to a request.

**Mr. René Villemure:** So you are not surprised by this 240-day time.

**Ms. Lyne Roy:** No. It happens.

**Mr. René Villemure:** It happens. Right.

Other articles, including one published on the Radio-Canada website on September 27, 2022, talk about information that was subject to the exemptions you mentioned.

Could you define the concepts of national emergency or national security, please?

**Ms. Lyne Roy:** I imagine you are referring to the Saint-Bernard-de-Lacolle site. Since the concept of national security varies, depending on the situation, the circumstances have to be analyzed and whether or not there is an exemption has to be determined.

• (1610)

**Mr. René Villemure:** Based on the analysis, you see whether or not the exemption applies. In this case, it was determined that this was the case. Why?

**Ms. Lyne Roy:** Are you talking about the leases?

**Mr. René Villemure:** I am talking about the contracts that were signed, including the leases, for which we are told there was an ex-

emption to the 30-day rule for reasons of national emergency or national security. I would like to know what justified that exemption.

**Ms. Lyne Roy:** Ms. Maioni, I do not know whether you are familiar with that.

[*English*]

**Ms. Teresa Maioni (Team Leader, Access to Information and Privacy, Department of Public Works and Government Services):** I don't think that a national security exception was taken on this particular file. That's something in the context of a law. This does not meet that criteria, so we didn't consider that particular exception in this case.

[*Translation*]

**Mr. René Villemure:** Nonetheless, that is what the journalists were told.

**Ms. Lyne Roy:** If an access to information request was made at the time the contract was awarded, it may be that that exemption was invoked to protect a commercial agreement. Contracts and leases are two different kinds of agreements.

**Mr. René Villemure:** In your opinion, should those contracts be made public, since it is public information relating to a public transaction?

**Ms. Lyne Roy:** I want to reiterate that each access to information request is examined individually since each one has its own unique aspects. In the case of the requests that we—

**Mr. René Villemure:** Thank you. I do not want to be rude, but the Information Commissioner told the committee that the government had more of a culture of secrecy than a desire to be open, so I understand a bit where that is going.

Mr. Proulx, in your opinion, and briefly—we have only two minutes left, when and why did the government conclude that the influx of asylum seekers was a pressing emergency?

**Mr. Dan Proulx (Executive Director, Information Sharing, Access to Information and Chief Privacy Office, Canada Border Services Agency):** That question may not be for me.

[*English*]

Scott, maybe you want to take this one.

[*Translation*]

If it is a specific question relating to access to information, I will be happy to help you.

[*English*]

**Mr. Scott Millar (Vice-President, Strategic Policy Branch, Canada Border Services Agency):** Yes. Thank you.

When we process access to information requests along the lines laid out by my colleague, we look at all of the different exceptions under the Access to Information Act. In this case, with access to information requests related to Roxham Road, we consult with PSPC on amounts paid and look at the questions around economic interests of Canada.

[*Translation*]

**Mr. René Villemure:** I am talking about access to information, not about money.

Mr. Proulx, I will ask you the question again. Do you think that housing people in trailers surrounded by a fence is a pressing emergency? What is the pressing emergency that justifies not responding to the access to information request?

**Mr. Dan Proulx:** There is no correlation between the emergency in Lacolle and the access to information request. It is incorrect to think that we did not respond to the access to information request. A request has to be processed properly, and that takes the time it needs.

To explain the situation we were in from 2020 to 2022, coming out of a global pandemic, the number of access to information requests sent to the Canada Border Services Agency rose by 51%, for a total of 11,457 requests. Every day, I handle 6,000 access to information and privacy requests and I resolve over 100.

In the case you have raised, processing the request is independent of the emergency in Lacolle. That is why initially I did not understand your question correctly, and I apologize for that. The request is processed properly and takes its normal course, having regard to the consultations that are required.

[English]

**The Chair:** I'm sorry, but we will have to end with that and go to Mr. Green for six minutes.

**Mr. Matthew Green (Hamilton Centre, NDP):** I'm going to go ahead, Mr. Chair, and pick up on this line of questioning.

I'm very interested in a September 27, 2022, Radio Canada article. Public Services and Procurement Canada stated that it entered into non-competitive contracts, given the national emergency due to the irregular arrival of a large number of asylum seekers. According to the Treasury Board's contracting policy notice 2007-4 on non-competitive contracting, a pressing emergency may involve the following:

- a. an actual or imminent life-threatening situation
- b. a disaster that endangers quality of life or safety of Canadians
- c. a disaster that results in the loss of life
- d. a disaster that results in significant loss or damage to Crown property

Which of these situations does the situation at Roxham Road fit into?

Lorenzo, if you could answer this, it would be great.

• (1615)

**Mr. Lorenzo Ieraci (Assistant Deputy Minister, Policy, Planning and Communications, Department of Public Works and Government Services):** Thank you, Mr. Chair, for that question.

In response to the question, I'll have to get back to you on which specific element would have been used. The only thing I would clarify is that we are talking about leases and contracts, and they are two separate things. The exception, in terms of emergency provisions, would apply under the contracting side.

With regard to which contracts were awarded based on an emergency basis and what the rationale was, I'd have to come back to the committee on that.

**Mr. Matthew Green:** Do you have the rationale, to my colleague's point, on when this was considered a national emergency?

**Mr. Lorenzo Ieraci:** Again, my colleagues from the procurement branch, because I'm not there anymore, would probably be able to provide you with more information, but for every file in which there is a national security exemption that is applied, the rationale is put on file.

**Mr. Matthew Green:** Would they have those on file?

**Mr. Lorenzo Ieraci:** They would be on file.

**Mr. Matthew Green:** Excellent.

I would ask this through you, Mr. Chair: Would you be willing to go ahead and submit those rationales to this committee for our consideration?

**Mr. Lorenzo Ieraci:** Yes. May I add just one more thing?

**Mr. Matthew Green:** Sure.

**Mr. Lorenzo Ieraci:** In terms of the national security exemption, I want to clarify that this is in terms of the application of the trade agreements and the obligations that are identified therein. What a national security exemption basically does is allow the government to be able to undertake procurements on, for example, an expedited basis.

**Mr. Matthew Green:** Sure. And the pressing emergency under the non-competitive contracting, you're saying, is separate from the leasing...?

**Mr. Lorenzo Ieraci:** That's correct.

**Mr. Matthew Green:** Okay, but in your opinion, were you provided with a pressing emergency rationale that would be congruent with that contracting policy?

**Mr. Lorenzo Ieraci:** If a contract was awarded on an emergency basis, yes, it would be.

**Mr. Matthew Green:** In your opinion, are the definitions of a pressing emergency sufficiently narrow to appropriately justify exemptions to Canada's competitive procurement requirements?

**Mr. Lorenzo Ieraci:** Is that with regard to the contracts that were awarded in this specific case?

**Mr. Matthew Green:** I mean generally speaking, and then you can provide specificity, sir.

**Mr. Lorenzo Ieraci:** I'm sorry. Could I ask you to re-ask the question?

**Mr. Matthew Green:** Are the definitions of a pressing emergency under the Treasury Board's contracting policy 2007 on non-competitive contracting...? When you invoke a pressing emergency, it would be different from a national emergency and given new parameters. Are the definitions clear enough so that your staff have the right guardrails in place to ensure that you're meeting the threshold?

**Mr. Lorenzo Ieraci:** Thank you for clarifying. I apologize for not catching that the first time.



The short answer is yes. I think there is information available to the staff, including from Treasury Board Secretariat, in terms of the distinctions between those two types of emergencies. We operate within those parameters.

**Mr. Matthew Green:** Are you well versed on the Conflict of Interest Act as it relates to procurement?

**Mr. Lorenzo Ieraci:** I'm fairly well versed.

**Mr. Matthew Green:** Fairly well. Perfect.

Section 4 of the Conflict of Interest Act provides the following:

a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

According to that same September 27 Radio-Canada article, it was identified that potentially there was a public officer holder involved in this. For the record, was a public office holder involved in the allocation of contracts to Mr. Guay?

**Mr. Lorenzo Ieraci:** In the allocation of contracts with a public office holder...?

**Mr. Matthew Green:** Correct.

**Mr. Lorenzo Ieraci:** Not that I'm aware of, but I will want to clarify for the committee that while I worked in the procurement branch previously, I'm not there at this point. I haven't been there for six months.

**Mr. Matthew Green:** How long did you spend there?

**Mr. Lorenzo Ieraci:** Within procurement it was about four years.

**Mr. Matthew Green:** It was enough time to kind of get versed on this stuff.

**Mr. Lorenzo Ieraci:** Yes.

**Mr. Matthew Green:** Okay. Perfect.

In your opinion, given the reporting on donations to both Liberal and Conservative parties, do you believe the allocation of contracts to Mr. Guay creates a conflict of interest or a public perception of conflict, given his political donations?

**Mr. Lorenzo Ieraci:** What I can tell you is that political donations are not something that's explored as part of the procurement process.

• (1620)

**Mr. Matthew Green:** Do you think maybe they should be?

**Mr. Lorenzo Ieraci:** I will leave that for the committee to decide.

**Mr. Matthew Green:** What due diligence do you do, then, on contracting, with regard to potential conflicts of interest, given what's before us here today?

**Mr. Lorenzo Ieraci:** Again, to my knowledge, donating to a political party by an individual or a business is not cause for not awarding a contract.

**Mr. Matthew Green:** At what point would a contribution be material enough for it to be considered a conflict?

**Mr. Lorenzo Ieraci:** In terms of materiality.... Do you mean dollar amounts?

**Mr. Matthew Green:** Sure.

**Mr. Lorenzo Ieraci:** I wouldn't know the answer to that question, sir.

**Mr. Matthew Green:** Okay.

Mr. Chair, I would just state that some of the ambiguity around, obviously, this process....

I'll close by stating that I'm coming to this with an open mind. I want to get to the facts. If we don't have the facts in terms of what the potential breaches were....

I'm not interested in doing this for a long time, but I'm really keenly interested in making sure we have a clear understanding of what took place.

**The Chair:** Thank you, Mr. Green. You're out of time.

We are on the second round now. It will be five minutes for Mr. Kurek.

Go ahead, Mr. Kurek.

**Mr. Damien Kurek (Battle River—Crowfoot, CPC):** Thank you very much, Mr. Chair.

I think that in the debate that led up to the adoption of this motion, a significant amount of time was spent on the differences between what we're trying to nail down at this committee—and that has to do with the situation surrounding contracts—and what others wanted to make it about, which was the immigration situation. There is a big difference here. That certainly is an important subject, and I note Mr. Moor's comments about encouraging legal entry to the country. It's unfortunate that our Prime Minister has suggested otherwise at different points in time.

However, we're digging down here to the integrity of contracts. When \$28 million has been awarded, it is a significant sum of taxpayers' dollars that have been spent, largely without competitive contracting.

To those at Public Works, was there ever a request made by someone outside of the evaluators to suggest that the emergency exemption should be applied?

[*Translation*]

**Mr. François Bernier:** I can answer that question. To my knowledge, there was no interference by anyone in the awarding of the contracts or leases.

[*English*]

**Mr. Damien Kurek:** If you're interfering, that's one thing. In terms of those involved on the ground within the various levels of leadership involved in something as complex as this, the designation of an emergency is what I'm really trying to get down to. What is taken into account there?

[*Translation*]

**Mr. François Bernier:** Thank you for your question.

Regarding putting the leases into effect,

[English]

there is no notion of emergency per se. That applies only to contracts, as my colleague Lorenzo pointed out earlier, but for

[Translation]

the lease signings and the lease improvements included in the leases, there was no notion of emergency.

[English]

The only notion we operated on was the context in which our clients were asking us to put these leases in place. The main criteria were location

[Translation]

and the speed with which they could be put in place, given our clients' operational context at that time.

[English]

**Mr. Damien Kurek:** Okay.

I'm just curious. Because there are a limited number of landowners associated with the Roxham Road crossing, who did your office at Public Works negotiate these leases with? Would you share that information with the committee?

[Translation]

**Mr. François Bernier:** The PSPC leasing agents in the Quebec region negotiated by mutual agreement with Mr. Guay for the lease of his lands and buildings near the border crossing.

[English]

**Mr. Damien Kurek:** Were the negotiations done directly with Mr. Guay? Was a third party involved, or a lawyer or something like that?

[Translation]

**Mr. François Bernier:** The negotiations were conducted by mutual agreement between the department's employees in the Quebec region and Mr. Guay.

[English]

**Mr. Damien Kurek:** When it comes to the use of the national security exemption, you just mentioned three different parties that were at the table. Which one of those parties requested a national security exemption or made the assumption that it was required?

• (1625)

**Mr. Stéphan Déry:** My colleague Lorenzo was talking about procurement contracts through which we buy material. We buy it, and then that national security exemption would apply. Here we're talking about leases. In these cases, there are no such clauses of national security exemption. This is solely based on the requirement of a client. In this case, it's CBSA, the operational need of CBSA on the ground, and the speed at which they need the infrastructure in order to respond to the crisis or the number of asylum seekers, which is increasing.

**Mr. Damien Kurek:** Thank you, Chair.

**The Chair:** We go now to Ms. Hepfner for up to five minutes. Go ahead.

**Ms. Lisa Hepfner (Hamilton Mountain, Lib.):** Thank you, Chair.

Thank you to our witnesses for their testimony today.

Mr. Déry, I'm wondering if you can go back to 2017 and lay the scene for us. What was the context? What was the urgency? Why did the government have to expand its services near the border crossing?

**Mr. Stéphan Déry:** Thank you for the question.

I think since PSPC is the supplier of services to the Government of Canada, we were not living the situation in Saint-Bernard-de-Lacolle. My colleagues of CBSA, IRCC and RCMP were living it.

I don't know if Mr. Moor or Mr. Proulx would like to answer regarding the situation in 2017 at Saint-Bernard-de-Lacolle.

**Ms. Lisa Hepfner:** Sure. Please go ahead.

**Mr. Jonathan Moor:** I'm happy to give some information on this point.

When somebody crosses the border between the ports of entry, the RCMP intercepts those individuals and they do their own criminal record checks, and then they deliver the individuals to the port of entry to do an admissibility check.

In this case, at Roxham Road in 2017, it was not possible to process that number of individuals at the existing port of entry at Saint-Bernard-de-Lacolle. Therefore, additional accommodation was required on an urgent basis.

The combination was required for a number of different functions. The first function was to do intake of the individuals and have a waiting area for them. The second function was around processing those individuals, initially to check identity but then to also consider admissibility, to provide humanitarian aid, canteens, washrooms and shower facilities, and also in some cases to provide sleeping accommodation if there were too many individuals to process at the same time.

This is still a requirement today. Up until now, all of these facilities have been provided through temporary mobile accommodation, and in 2021, a leasehold improvement was agreed to using PSPC as our lease arranger with Monsieur Guay to actually retrofit two of his own buildings, which would allow us to consolidate these functions. These were the functions that were required. Clearly in 2017 there was an urgent requirement, because on one day I think we had up to 400 asylum seekers coming across the border.

**Ms. Lisa Hepfner:** What would happen to all those people if that infrastructure was not in place?

**Mr. Jonathan Moor:** We have to provide humanitarian assistance to those individuals as soon as the RCMP hands them over to us. This is why we have to have the infrastructure. It's very important to know that our infrastructure has provided the facilities for those individuals, but once they are processed, they are handed over to the province or to the IRCC.

**Ms. Lisa Hepfner:** Okay.

Mr. Déry, maybe I can go back to you and ask this. We were talking about the procurement of that land. I'm wondering if you can say whether there's anybody else you could have negotiated with to get the facilities you needed to process the refugees coming across the border.

**Mr. Stéphan Déry:** My colleague François will add to that, but in real property and in an operation like this.... As my colleague Mr. Moor mentioned, 400 people can cross the border each day. When we look at a situation like that and respond to our client's needs, they wouldn't want us to rent them something, because over the weekend, back in those days, the team of my colleagues went around to see what we could get. Then we were talking about 15 or 20 kilometres away. Now we were getting into the logistics of transporting all those migrants before they would be checked.

Mr. Guay owns all the land around Saint-Bernard-de-Lacolle, as you can see on the map that was provided to every member of the committee. Outside of that is agricultural land that is protected by the province, so it was quite difficult in a situation like that to respond to the urgent needs of our client, to turn around and find a place where we could install. At the time, if we go back to that time, the idea was that it was going to be an issue for a month or a couple of months. Now it's been five years. At the time it was a pressing requirement—

• (1630)

**Ms. Lisa Hefner:** Let me ask this quickly.

Leasehold improvements, the improvements to the land, were a big part of the spending of that \$28 million. Is that right?

**Mr. Stéphan Déry:** Absolutely, it was, for all the buildings that were owned by Mr. Guay. We had to bring electricity and additional water to the warehouse. All the infrastructure was put in place. Leasehold improvement is a big portion of the cost.

**The Chair:** Thank you.

For two and a half minutes, we'll have Monsieur Villemure.

[*Translation*]

**Mr. René Villemure:** My question is for Mr. Millar and Mr. Moor. I don't know which of the two will be able to answer.

Is the fact that we are receiving 400 people a day at Roxham Road not contrary to the spirit of the Safe Third Country Agreement?

We are building permanent structures for a project that was supposed to be temporary.

[*English*]

**Mr. Scott Millar:** I'll say a couple of things just to clarify. Over 100 people a day cross at Roxham Road; it's not 300 to 400. I just wanted to give that figure.

The STCA, the Safe Third Country Agreement, applies at ports of entry. Those crossing irregularly between points of entry are the responsibility of the CBSA, and they are not covered under the STCA.

[*Translation*]

**Mr. René Villemure:** Still, we are making a structure for the non-application of the Safe Third Country Agreement permanent. Correct me if I am wrong.

[*English*]

**Mr. Scott Millar:** We have to accept those who cross irregularly. We have no legal authority to direct them back. They have a right to make a claim, and the process that my colleague Mr. Moor described in terms of the flowthrough allows us to assess their eligibility to make a claim to the Immigration and Refugee Board after we have screened them and given appropriate screenings for security, for health and for identity. We are required by law to receive them and to do those checks.

[*Translation*]

**Mr. René Villemure:** Does that amount to a pressing emergency?

[*English*]

**Mr. Scott Millar:** It is absolutely a massive preoccupation for me and my colleagues, and that is why we're putting every effort to—

[*Translation*]

**Mr. René Villemure:** We were told earlier that pressing emergencies are actual or imminent life-threatening situations, a disaster that endangers quality of life or safety of Canadians, a disaster that results in loss of life, or a disaster that results in significant loss or damage to Crown property.

Which of those definitions applies in this case?

[*English*]

**Mr. Scott Millar:** I would defer to my colleagues on what applies in that case. What we can speak to is what we're bound to do legally, dealing with the numbers that were crossing, those high volumes, and assessing them for possible national security risks or other elements of inadmissibility, which could include organized criminality, human rights violations—

**The Chair:** I'm very sorry. I never like to interrupt anyone, especially a witness, but we are on the clock and under quite a bit of pressure for time right now.

**Mr. Matthew Green:** Mr. Kelly, before I begin, I'm going to cede my time to Mr. Villemure to continue his questions.

**The Chair:** Okay. Monsieur Villemure can continue for two and a half minutes.

[*Translation*]

**Mr. René Villemure:** Thank you.

Mr. Millar, if I am not mistaken, the people are first met by the police. Then they are transferred to another location, several kilometres away, where the RCMP takes over. Ultimately, the Canada Border Services Agency takes charge of them. Is that right?

[English]

**Mr. Scott Millar:** That's true. The RCMP receive them, do an assessment on criminality and do security checks and then bring them to us for further processing.

• (1635)

[Translation]

**Mr. René Villemure:** I am going to ask you my next question even though you are not with the RCMP.

I went to Roxham Road last Friday but I was denied access. I wanted to go and see, personally, what the situation is, since we are talking a lot about it.

Is it reasonable to prevent a parliamentarian from seeing what is happening at a facility where people are being held? I assume that these people's identity is verified before they are sent on.

[English]

**Mr. Scott Millar:** I honestly wouldn't be able to speak to that. My understanding is that parliamentarians have visited the area, but on the specifics of what they saw and had access to, I would have to defer to the RCMP.

[Translation]

**Mr. René Villemure:** Thank you.

Mr. Proulx, what do you think about the whole situation referred to by Mr. Millar, including the numerous access to information requests relating to it?

**Mr. Dan Proulx:** Can you restate the question, please?

**Mr. René Villemure:** Is this situation problematic?

**Mr. Dan Proulx:** From the access to information perspective, this request is not particularly different from the others. We receive them by the thousands, relating to various subjects and having varying degrees of sensitivity.

Making an access to information request to see documents that the Canada Border Services Agency has in its possession is a very particular process. It is a fundamental right.

**Mr. René Villemure:** Because of the volume of requests you receive, it takes time. Do you think the time taken here is reasonable?

**Mr. Dan Proulx:** Absolutely.

Today, Monday, in my division, I handled 6,000 access to information and privacy requests in progress. Tomorrow morning, I will receive 100 new requests. It is absolutely reasonable, when we have only just got our bearings again after the pandemic, for us to be in the situation we are seeing now. There is no problem in terms of the requests.

[English]

**The Chair:** Thank you, Mr. Proulx.

The last two questioners of this panel will be Monsieur Paul-Hus and Mr. Fergus. I'm going to cut it to three minutes each, and then we'd like to transition to the next panel as quickly as possible after that.

Thank you. Go ahead.

[Translation]

**Mr. Pierre Paul-Hus:** Thank you, Mr. Chair.

My question is for the witnesses from the department.

From what I understand, the fact that Mr. Guay's land is really very close to the Saint-Bernard-de-Lacolle border crossing suits everyone. It is the simplest way to handle the situation, for everyone. We might say that Mr. Guay won the lottery: he demands the price he wants and the government pays, just like that.

The people arrive by Roxham Road, but a little farther away there is another border crossing, which is obviously smaller, and a campground. Were there negotiations with other people? You mentioned farmland earlier, but facilities could have been set up on the campground, probably at a lower cost.

However, Mr. Guay and his land are there, the high price is paid, and no one asks questions. We are talking about several tens of millions of dollars.

The hotel we are all familiar with, that I referred to earlier, has not been used. We know that there is enough space in the trailers for approximately 500 people to sleep there. You mentioned 400 people, but that was in 2017, when the phenomenon first began. The current average is 100 people a day. After 24 hours or 48 hours, at most, those people are sent to Montreal or Toronto.

You say that dormitories are going to be built in Mr. Guay's buildings. There are already 500 people being housed in the trailers. The space available is therefore entirely sufficient. As well, in summer, tents have been provided to accommodate 3,000 people.

The hotel is not being used. You told me earlier that it may have been used a bit, but I do not know for whom. Why is the government continuing to spend money on this hotel?

**Mr. Stéphan Déry:** I would like to offer two clarifications.

First, as I said earlier, we provide a service for federal government departments. The rental of the hotel came with a number of services, at the request of my colleagues at the Canada Border Services Agency, the CBSA. Those people are handling the flood—

**Mr. Pierre Paul-Hus:** With all due respect, Mr. Déry, I have been an MP for seven years, and in all that time, we have been told the same thing: the CBSA and the RCMP make requests and you carry them out.

Everyone pays and it costs a fortune. We would like you to tell us how this need is proved, but we are never able to get a clear answer. What is the cause of this need? Do you question it? When we ask you the question, you answer that you are going to pay without asking questions.

Ultimately, I want to point out that Mr. Guay has hit the jackpot because his land is close to the Saint-Bernard-de-Lacolle border crossing. This could be organized elsewhere. But no one is able to answer my questions about this.

• (1640)

**Mr. Stéphan Déry:** I would like to make a correction. We are renting the hotel at the request of the people from Immigration, Refugees and Citizenship Canada, for them to use. They are the ones who manage the number of people who arrive, not us.

For our part, we have to make sure that the properties and the hotel are rented at a reasonable cost to Canadians. That is what we do.

**Mr. Pierre Paul-Hus:** I know you are doing your job, Mr. Déry.

The problem lies in the reasonableness of the costs, in our view, and that affects a number of cases.

Thank you.

[*English*]

**The Chair:** We'll now go to Mr. Fergus for the final three minutes, and then we'll change panels as quickly as we can.

Go ahead.

[*Translation*]

**Hon. Greg Fergus:** Thank you, Mr. Chair.

I would like to come back to a question and give a summary, because I think it is very important.

Apart from the public servants and contractors at Public Services and Procurement Canada, no public office holder, whether politicians or ministers' or members' office staff, were involved in the decision-making throughout the process relating to these contracts. As well, the value of these contracts is well below the threshold at which the minister's approval is required. Is that correct?

**Mr. Stéphan Déry:** I can confirm that approval of these contracts was up to the public servants because of that threshold, and so they were the ones who made the decisions and leased this land and these buildings, based on the needs and requests of our clients, IRCC and the CBSA.

[*English*]

**Hon. Greg Fergus:** I will ask this in English because I think this is an important point to make.

Only public servants, or the consultants with whom they made contracts, were involved in the attribution of these contracts, because they fell well below the delegation of authority. That's been established for a long time, even before this government came along.

**Mr. Stéphan Déry:** Mr. Chair, I can confirm it is below the authority. It is an authority, in this case, that can be done by civil servants, not by political staff or the minister.

**Hon. Greg Fergus:** Thank you.

[*Translation*]

I have one more question for you, Mr. Déry.

As you have reiterated several times, the role of your department is to respond to the needs of your clients, which are other departments like IRCC or the CBSA. It is your clients that determine their needs, not you. Your role is to make sure, when the contracts are signed, that Canadian taxpayers are getting value for their money.

**Mr. Stéphan Déry:** That is exactly it. The clients define their needs and we make sure that the solution we find is suitable for them.

[*English*]

I'll say it in English. There's value for money for Canadians in what we're putting into place.

[*Translation*]

**Hon. Greg Fergus:** Thank you, Mr. Déry.

I would like to thank all the witnesses who are present and who are participating virtually.

Thank you, Mr. Chair.

[*English*]

**The Chair:** Thank you, Mr. Fergus. I thank all of our witnesses as well.

I will now suspend for a quick moment. I will ask our witnesses to leave the room, and we will resume with our next panel.

With that, the meeting is suspended.

• (1640)

(Pause)

• (1645)

**The Chair:** Welcome back, everyone.

We're resuming our study of the use of public funds in relation to the Roxham Road crossing.

I would like to welcome our witness for the second hour.

[*Translation*]

He is Pierre Guay, the president of Importations Guay Ltée.

[*English*]

Before we begin, I will inform the committee that Mr. Guay asked that he be assisted by counsel. As specified by the rules of the House of Commons, is there consent that he may have counsel present?

**An hon. member:** Yes.

**The Chair:** Nobody is objecting. Okay, that's fine. He will be assisted by counsel.

The witness asked for a bit beyond the five minutes.

We're really short on time, so, Monsieur Guay, could you—

Go ahead, Mr. Barrett.

**Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC):** Procedurally, the practice is that the invited witness responds to questions from members of the committee through the chair. Their counsel is able to advise their client and be part of the appearance, as just agreed to by committee, but they are not entitled to standing to speak at the committee.

Is that correct, Mr. Chair?

**The Chair:** Yes, that's correct. Thank you, Mr. Barrett.

With that, I will ask Mr. Guay to begin. I think we told him he could have up to seven minutes, but I'm going to ask him to keep it as short as he possibly can.

Go ahead, Mr. Guay. We're a full 20 minutes behind schedule, it would seem.

**Mr. Pierre Guay (President, Importations Guay Ltd., As an Individual):** Okay. Thank you, Mr. Chair, for the time you're allowing me to speak today.

[*Translation*]

Good afternoon, Mr. Chair and members of the committee.

Thank you for inviting me today to this meeting of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

As a citizen and member of our community, I consider it my responsibility to appear before you today, to cooperate fully with the committee, and to answer its questions, to the best of my ability, in connection with its study of the use of public funds in relation to crossing by asylum seekers at Roxham Road.

Like most of you, I have carefully read the many articles published in the newspapers and other publications in recent months and recent years concerning the challenges that the Canadian government has had to meet and that it is still facing in connection with asylum seekers entering the country and regarding the rental contracts signed by the Canadian government with my companies for placing and temporarily housing these asylum seekers.

Of course, I have also noted that in some of those articles, reference was made to the fact that in recent years I have donated to the Liberal Party of Canada and the Conservative Party of Canada. They insinuated that these donations might have been made with the aim of receiving preferential treatment, several years later, from whatever federal government might be in office.

I would like to take the opportunity you are offering me today to clarify the facts.

As a citizen of this country, I believe it is the duty of us all to promote and participate in our democratic system, each of us according to our choice. In recent years, therefore, I have donated to the Liberal Party of Canada and to the Conservative Party, depending on the years.

The donations to the Liberal Party of Canada total approximately \$20,000.00 and were made over the course of some 20 non-consecutive years. The donations to the Conservative Party of Canada come to about \$11,500 in total and were made over the course of more than 30 non-consecutive years. None of those donations was made with the aim or in the hope of signing, several years later, or in exchange for, a contract of some sort with whatever federal government might be in office, let alone of receiving any favourable treatment from it.

Moreover, I would like to state that I am not a member of or activist for any political party. I maintain no relationship with any politician, of any party, in either the federal government or the

provincial government. I have never solicited any politician or other government representative in order to enter into contracts for the rental of my land and buildings in Saint-Bernard-de-Lacolle that I have acquired throughout my career.

In 2017, it was actually officials and other representatives of the federal government who solicited me to inform me of their interest in renting some of my land and buildings along autoroute 15 in Saint-Bernard-de-Lacolle so that they could, very urgently, manage and house thousands of asylum seekers. No approach was made by me.

I did not ask whether or not those officials and other representatives of the federal government had issued a request for bids, or whether such a request for bids was required in the circumstances. I was asked to help and to accommodate the government in its management of the asylum seekers, by renting certain of my land and buildings, which I was in a position to do.

I understand that you want to ask me questions today concerning the rental contracts that were signed by my companies with the federal government. On that subject, I understand that the committee has broad powers, but I would nonetheless like to point out that it is my understanding that certain information in those contracts might be confidential.

As a result, I would respectfully ask that you not put me in a position where I would be asked to provide such confidential information, insofar as the committee is able to obtain that information from other sources, and specifically the various branches of the government.

• (1655)

[*English*]

With this said, I wish to mention once more that I am before the committee today on a voluntary basis with the intention to fully cooperate with it and to answer its questions to the best of my knowledge.

Thank you.

**The Chair:** Thank you.

To begin, we will go to Monsieur Paul-Hus for up to six minutes.

[*Translation*]

**Mr. Pierre Paul-Hus:** Thank you, Mr. Chair.

Thank you for being with us, Mr. Guay.

I know you are a businessman, and that is fine. However, we do not understand how the government went about things in this case.

Your land is indeed well situated in relation to the Saint-Bernard-de-Lacolle border crossing, but it would have been possible to go elsewhere. Initially, that might not have been possible, but today, when the contracts are being renewed for 10 years at the cost of tens of millions of dollars, it raises questions.

One might think you have won the lottery. You may not have asked for it, but you won it. Now, we have to ask whether there was impropriety. We cannot obtain precise information about the costs from the officials.

You say you were contacted by officials or other people. Who negotiated with you at the start? Are you still dealing with the same people or have they changed since then?

**Mr. Pierre Guay:** I am going to clarify things.

At the start, it was people from the Canada Border Services Agency who came knocking on my door to see me, because customs was short of a lot of space to accommodate the asylum seekers.

**Mr. Pierre Paul-Hus:** Did you make a note of the names of those people?

**Mr. Pierre Guay:** It was customs officers. You can find that out.

**Mr. Pierre Paul-Hus:** Right.

**Mr. Pierre Guay:** There were several of them who came to see what was offered. Then teams from Montreal and Ottawa came to check whether it was suitable for rental purposes.

**Mr. Pierre Paul-Hus:** Those people met with you and saw that your land would fit the bill, so they asked you how much it would cost to rent your land and buildings. Is that right?

**Mr. Pierre Guay:** No. They transferred the file to another department, Public Services and Procurement Canada.

**Mr. Pierre Paul-Hus:** People from that department were with us earlier, just before you.

They asked you to rent your land, the hotel, and all of your property there. Then you gave them a price. Is that how it happened?

**Mr. Pierre Guay:** No. It started slowly. They started by renting small pieces of land for very short periods. There was a lease for the land. We negotiated by telephone with someone from PSPC and established a price based on the market.

**Mr. Pierre Paul-Hus:** What is a price based on the market?

**Mr. Pierre Guay:** I checked the value of the land with my accountant. We have made a lot of investments.

Don't forget that we are located in a commercial zone, not an agricultural zone. All of the land in southern Quebec has been zoned agricultural. You can't build where you want. We have invested a lot in our land. We do not have municipal water and sewer services.

We had to compare what we were being offered and what it had cost us.

• (1700)

**Mr. Pierre Paul-Hus:** You say that it is confidential and we must not know the information. What is so confidential? An hour before the meeting, the government published somewhat more detailed information. We know that it involves \$28 million for your site.

What are you afraid of us knowing? In your presentation, you said you did not want us to ask you for it. Why?

**Mr. Pierre Guay:** I have nothing to hide. The people came knocking on my door; I did not solicit anyone.

When we signed the contracts, the government told us that this information was confidential for reasons of immigration and security, customs or national, I don't know.

**Mr. Pierre Paul-Hus:** So it was the government that asked you not to talk and to respect a certain degree of confidentiality, because it does not want it known. You did not request anything yourself.

**Mr. Pierre Guay:** That is correct. As landlords, we do not advertise our prices. Personally, I am a businessman. We do business with other companies. When we sign contracts, we do not disclose them to the person next door.

**Mr. Pierre Paul-Hus:** Right.

The problem here is that it is public funds being used to pay. That is why we are kind of insisting on this point. The advantage of doing business with the government is that it pays well. The disadvantage is that we ask questions.

Earlier, you said you had no relationships with federal politicians, but you contributed to the campaign fund of the member for Lacolle.

**Mr. Pierre Guay:** It was the member for Châteauguay.

**Mr. Pierre Paul-Hus:** Yes, the member for Châteauguay—Lacolle, Ms. Shanahan.

**Mr. Pierre Guay:** Yes, that is correct.

**Mr. Pierre Paul-Hus:** Thank you.

[English]

**The Chair:** Now we go to Ms. Saks for up to six minutes.

**Ms. Ya'ara Saks (York Centre, Lib.):** Thank you, Mr. Chair. Thank you, Mr. Guay, for joining us today.

Mr. Guay, how long have you owned the land at Saint-Bernard-de-Lacolle?

**Mr. Pierre Guay:** We've owned the land for several years. My father was living on a small part of the farm.

**Ms. Ya'ara Saks:** Excellent. I'll just lead off from there, if I may.

I understand it's been in the family and that you've lived there for a long time. Who actually lives at Roxham Road in terms of the households that are there?

**Mr. Pierre Guay:** From what I now, there are individual families who live at different houses along that road.

**Ms. Ya'ara Saks:** Would they be able to accommodate or deal with 100 asylum seekers a day going past their doors?

**Mr. Pierre Guay:** Could you reframe that question, please?

**Ms. Ya'ara Saks:** Would they be able to handle or be happy about it, or does it disrupt their lives, to have 100 asylum seekers or more go past their doors every day?

**Mr. Pierre Guay:** I presume it does. I haven't spoken to any of them. We know they're not happy about it. They're very disappointed to see that there's traffic and buses. The valuation of their property is probably not maintained as what it was before.

**Ms. Ya'ara Saks:** It would be fair to say that at Roxham Road itself, it's disruptive to the local residents.

**Mr. Pierre Guay:** I would say so, yes.

**Ms. Ya'ara Saks:** Your area at Saint-Bernard-de-Lacolle is at a distance of about five kilometres from the border. Is that correct?

**Mr. Pierre Guay:** That's correct.

**Ms. Ya'ara Saks:** As mentioned previously, CBSA and IRCC and border security do have an obligation under the safe third country agreement to assist asylum seekers when they cross the border. We're not allowed to turn them away, and they need a place to go.

What's the weather like in Saint-Bernard-de-Lacolle around now and through the winter?

**Mr. Pierre Guay:** Now the weather is the same as it is in Montreal, except that we probably have more snow in our area in the wintertime and it can get very cold, like -10° Celsius with the wind.

**Ms. Ya'ara Saks:** There are difficult outside conditions for someone who is seeking safety and shelter and safe harbour.

**Mr. Pierre Guay:** It's definitely too cold for them.

**Ms. Ya'ara Saks:** You mentioned earlier that CBSA approached you, that some agents came to you to help resolve an issue of asylum seekers crossing at Roxham Road, looking for a solution so the government could meet its obligations under the safe third country agreement, and that it took time to develop that relationship, to understand what the needs were in setting up safe harbour at Saint-Bernard-de-Lacolle. Is that correct?

• (1705)

**Mr. Pierre Guay:** That's correct.

**Ms. Ya'ara Saks:** When you began—you mentioned this, as did officials—in terms of commercial market value, you did your assessments, but I can also hear that you are a man of compassion and not only a businessman.

In the process of the negotiations, investments and leaseholder agreements are made in order to.... When any landlord sets up a lease agreement, there are adjustments, accommodations, renovations that need to be made, and the costs were calculated in conjunction with officials to create an operational facility for CBSA and IRCC. Is that correct?

**Mr. Pierre Guay:** That's correct.

**Ms. Ya'ara Saks:** The officials said it was fair market value. Do you feel that it was not only fair market value but that maybe you accommodated due to the conditions at hand of the folks who were coming through, understanding this was a real need?

**Mr. Pierre Guay:** Yes, well.... With our hotel, our rooms are rented in the summertime at the same price as we rented them to the CBSA—well, actually it was Immigration Canada that rented the rooms. In the wintertime, they get the 35% discount on the rooms, so they pay approximately \$100 a day.

**Ms. Ya'ara Saks:** That's a fair-value rate, in other words.

**Mr. Pierre Guay:** Yes.

**Ms. Ya'ara Saks:** Thank you for that.

Just continuing in that line of questioning, one of my colleagues asked earlier about a public office holder. Who did you negotiate with in terms of the leases themselves? I don't need names. I just need the title or office.

**Mr. Pierre Guay:** It was the department of public works.

**Ms. Ya'ara Saks:** Was it a minister of the Crown, yes or no?

**Mr. Pierre Guay:** No.

**Ms. Ya'ara Saks:** Was it a chief electoral officer?

**Mr. Pierre Guay:** No.

**Ms. Ya'ara Saks:** Was it a member of ministerial staff?

**Mr. Pierre Guay:** No.

**Ms. Ya'ara Saks:** Was it a member of Parliament?

**Mr. Pierre Guay:** No.

**Ms. Ya'ara Saks:** Was it a Governor in Council appointee or any of the following persons: a lieutenant governor, a member of office staff of the Senate, the House of Commons or the Library of Parliament?

**Mr. Pierre Guay:** No.

**Ms. Ya'ara Saks:** Okay. Then it was no one who fits the definition of a public office holder. Is that correct?

**Mr. Pierre Guay:** That's correct.

**Ms. Ya'ara Saks:** Thank you, Monsieur Guay.

On that note, how long have these lease agreements been in place, and, without disclosing too much, is it an annual renewal or is it a term renewal? I come from a commercial real estate background, so I'm a little curious.

**Mr. Pierre Guay:** Well, some of the leases are for one year. Some are renewed month to month. Some are renewed for six months, and some are renewed for one year. Lately—

**Ms. Ya'ara Saks:** In general terms, the spirit of the leases is that they are on an as-needed basis.

**Mr. Pierre Guay:** That's correct.

**Ms. Ya'ara Saks:** Okay. Thank you. I have no more questions, Mr. Chair.

**The Chair:** Thank you.

We go now to Monsieur Villemure.

[Translation]

**Mr. René Villemure:** Thank you for being here, Mr. Guay.

I agree with you: donating to a political party is not a crime, but you do some diversity in your allegiances.



One of my colleagues mentioned that the hotel rooms have remained empty for a long period. Is that correct?

**Mr. Pierre Guay:** No. I am going to correct you. The hotel has been occupied for a majority of the time. The Border Services Agency sent asylum seekers to the hotel when it opened. That was done in collaboration with Immigration, Refugees and Citizenship Canada and with health services.

A lot of asylum seekers stayed in the hotel for several weeks, particularly in quarantine during the pandemic. In fact, some had contracted COVID-19. Some were vaccinated while others were not.

At present, the hotel has an occupancy rate of 75% to 80%. All its facilities, whether it be the restaurant, the bar or the conference room, are 100% occupied by asylum seekers. It has even become a bus terminal.

• (1710)

**Mr. René Villemure:** So there has not been a moment when the hotel was flat out empty.

**Mr. Pierre Guay:** There may have been a week or two when customs was closed. I don't know whether asylum seekers got lost, but I know there were still people from time to time.

**Mr. René Villemure:** So during the COVID-19 pandemic, your hotel was not empty or almost empty.

**Mr. Pierre Guay:** No, there were always people.

**Mr. René Villemure:** Right.

Earlier, you talked about confidential agreements. Since you are a businessman dealing in real estate, you know that you don't state all the terms publicly when you sign a lease. That goes without saying.

In this case, however, was it the government that asked that the contracts be confidential, beyond what you would do in a real estate deal?

**Mr. Pierre Guay:** As a businessman, I have signed contracts with people from Public Works and Government Services Canada who told us that the rates were confidential. In the negotiations, I had the impression that everything was confidential.

If the government wants to disclose these figures, it can do so.

**Mr. René Villemure:** You personally have no objection to that?

**Mr. Pierre Guay:** No.

**Mr. René Villemure:** Are you currently negotiating contracts other than the nine we talked about earlier?

**Mr. Pierre Guay:** No. Two contracts were signed recently for two buildings, 337 and 339. The rents started being paid in July for a period of five years. There is absolutely nothing...

[English]

in the works right now.

[Translation]

It is status quo at present.

**Mr. René Villemure:** Perfect. Is it status quo because there is a lot of talk about it in the media or is this a normal phase from a business perspective?

**Mr. Pierre Guay:** It is a normal phase. If the newspapers want to talk about it, that is their prerogative.

**Mr. René Villemure:** Absolutely.

To summarize, the agreements have been kept confidential at the government's request. You, yourself, however, have no objection to them being made public.

**Mr. Pierre Guay:** Correct. Personally, I have nothing to hide.

**Mr. René Villemure:** Thank you.

We will ask the government what we can do in that eventuality.

Thank you, Mr. Chair.

[English]

**The Chair:** Okay.

We'll go to Mr. Green for up to six minutes.

**Mr. Matthew Green:** Thank you very much.

I want to welcome Mr. Guay here.

I know that reports in the media probably weren't welcome on your behalf, just in terms of the way things were framed. Myself, I'm trying to get to the bottom of the facts in this particular situation. I recognize that you may have some support with you in terms of what you can and can't say pertaining to the matters around your property.

I'm going to ask a couple of general questions, and then I'm going to allow you to reflect on some of the other lines of questions that have come your way and that maybe with more time you would have answered more fully.

First, could you describe, to the best of your ability, using your own words, what the facilities would be like on your commercial properties that are housing these migrants?

**Mr. Pierre Guay:** Well, okay, the facilities.... If we come to the beginning, CBSA rented two suites from my hotel in the beginning. Then they rented our conference room for a very short period of time, 10 days. In 2018, they rented the hotel—all our rooms—and our accommodations are excellent. At the hotel, we had to have a sprinkler system. We had to have a generator. We treat our own water sewage system, and we have our own water treatment plant, so all the asylum seekers were very well received at our hotel, and we also prepared meals for them for breakfast, lunch and dinner. We think that we did a good job.

**Mr. Matthew Green:** I appreciate you—

**Mr. Pierre Guay:** Now, as far as the other properties go, where there's land, there is a contract with RCM trailers, but that was negotiated between Public Works and them. We had nothing to do with the RCM trailers.

• (1715)

**Mr. Matthew Green:** I'm sorry. Just so I'm clear, the trailers are on your property...?

**Mr. Pierre Guay:** Yes.

**Mr. Matthew Green:** How would you describe them, using your own words? You obviously see them. They're on your property. How would they compare to your hotel in terms of the living conditions of the asylum seekers?

**Mr. Pierre Guay:** Well, it's not the same. I had the opportunity to visit briefly. These trailers are not the same as a hotel room. Our hotel rooms are classified with three to four stars in Quebec, and our rooms are all air-conditioned. We provide hot water and everything that is necessary for

[Translation]

the asylum seekers.

[English]

**Mr. Matthew Green:** When you're doing leasehold improvements there, what types of security considerations would you have had to include? Would you consider your hotel and the additional trailers to be a secured facility from a basic layman's point of view?

**Mr. Pierre Guay:** Are they a secure facility? Well, the only thing I can say is that for one or two years, we had fences all around our hotel. We have *les commissaires*. They're there for security purposes—

**Mr. Matthew Green:** Is that to keep people out or to keep them in?

**Mr. Pierre Guay:** Well, it's to keep my customers out, because actually the whole hotel is closed. We have no business from the outside world, so we're losing the goodwill that we—

**Mr. Matthew Green:** There's been a material impact on your business. I can appreciate that.

Again, I note the multi-generational nature of the holding. I note that if you had a crystal ball that could have predicted this, perhaps this future contract or whatever donations, perhaps you'd be living in Bermuda and not where you are now, because you'd have answers to a whole bunch of other questions, I'm sure, that would be profitable, so I appreciate that.

I want to give you the last two minutes here to expand on anything. Given the fact that your name's come up publicly, I want to give you the chance to speak off the cuff here and share any final thoughts that you might have around this scenario that you found yourself in and what impacts it might have on you.

**Mr. Pierre Guay:** Well, we were very sensitive at the beginning. Customs had.... They were all overwhelmed. The RCMP was overwhelmed. Customs was overwhelmed. There were people everywhere. There was one case of a lady who had a baby in the hallway at customs, and something needed to be done, so they came to see me. I didn't solicit anybody. I didn't solicit any politicians. I didn't solicit any *fonctionnaires*, so everybody came—

**Mr. Matthew Green:** Sir, we had a list, I think. Ms. Saks listed all the people in terms of the process, but just for clarity and to be absolutely clear, at any point in time did you have any discussions with anybody political or...? We heard about Ms. Shanahan. Did you even talk to Mrs. Shanahan about it in passing?

**Mr. Pierre Guay:** No.

**Mr. Matthew Green:** Okay, thank you, sir.

Those were my questions.

**The Chair:** Thank you.

As we get in to the next round, I'm going to cut the times a little bit. We're going to go over time, but not by much.

We're going to go to Mr. Kurek for four minutes. Go ahead, Mr. Kurek. You'll be followed by Mr. Fergus.

**Mr. Damien Kurek:** Thank you.

Thank you for coming to the committee today.

To make it clear and to follow up on Mr. Green, you mentioned that there have not been any conversations—not just negotiations, that was made very clear— with Ms. Shanahan.

Have there been any other discussions with any member of government, political staff or anyone outside of the public works folks and the initial contact from CBSA related to the leasing of your properties?

**Mr. Pierre Guay:** There were none whatsoever.

**Mr. Damien Kurek:** So that we can have a clear understanding of what the timeline is, do you know the date that CBSA came and approached you regarding the use of your facility?

• (1720)

**Mr. Pierre Guay:** Yes, I have a timeline here. It would be when they started renting two suites at the hotel on April 23, 2018.

**Mr. Damien Kurek:** Okay.

**Mr. Pierre Guay:** I'm sorry; let me go back. They came to rent my first building on May 1, 2017. I'm sorry about that.

**Mr. Damien Kurek:** Okay, it's May 1, 2017.

**Mr. Pierre Guay:** That would be the first time, yes.

**Mr. Damien Kurek:** In any of the discussions that have taken place.... You mentioned earlier something very interesting, which was that the government talked about the confidential nature of these lease agreements. I'm curious if, at any point in time, the emergency nature of these leases or any of the property enhancements and whatnot were brought up by the government. Did the government ever bring up the emergency nature of how they were conducting these leases and whatnot?

**Mr. Pierre Guay:** Well, I will tell you that once they had the lease signed, they wanted everything for yesterday because it was an urgent matter, very urgent. Everything was for yesterday.

**Mr. Damien Kurek:** Has that continued? You mentioned a few minutes ago some five-year leases. Certainly it seems that when something's being signed for five years, that's a lot longer than what constitutes a typical emergency.

**Mr. Pierre Guay:** Well, they rented our building at 339 so they could get rid of all of their trailers for the RCMP and I think to downsize. By renting my two buildings, they were going to be saving quite a bit of money—

**Mr. Damien Kurek:** Okay.

**Mr. Pierre Guay:** —on a lot of expenses they had right then.

**Mr. Damien Kurek:** I'm just curious. I'm looking at some of the information here. You made donations to Ms. Shanahan's local EDA after signing these contracts. Did you ever consider that a conflict of interest might be perceived if someone looked at these contracts and the fact that you were making donations to a Liberal member of Parliament's campaign infrastructure?

**Mr. Pierre Guay:** It never came to my mind.

**Mr. Damien Kurek:** Have you met her in person or seen her in person since 2017?

**Mr. Pierre Guay:** Yes. She stopped by my store. I have a retail store at the border, and she was doing her rounds, I guess, to visit all the different businesses in the area. She met my employees and me.

**Mr. Damien Kurek:** Was that during an election or outside of an election?

**Mr. Pierre Guay:** I don't recall exactly the date, but she did come. They took a photo, and that photo ended up on CBC news.

**Mr. Damien Kurek:** Okay.

**The Chair:** Thank you, Mr. Kurek.

We're going to go next to Mr. Fergus for four minutes.

[*Translation*]

**Hon. Greg Fergus:** Thank you, Mr. Chair.

Thank you for your testimony today, Mr. Guay, which has been crystal clear. I am sorry that you find yourself in this situation, because in my view there was nothing problematic.

I would like to ask you the same series of questions as my colleague Ms. Saks asked you in English, so it is crystal clear in both official languages.

In your negotiations in this case, did you have any interactions with a minister of the government?

**Mr. Pierre Guay:** No, I had no discussions with any politician whatsoever.

**Hon. Greg Fergus:** I am going to ask my questions rapid-fire and you can answer simply yes or no.

Did you have any discussions with a minister of state or a parliamentary secretary?

**Mr. Pierre Guay:** No.

**Hon. Greg Fergus:** Did you have any with the chief electoral officer?

**Mr. Pierre Guay:** No.

**Hon. Greg Fergus:** Did you have any with a member of the staff of a minister, a minister or state or a parliamentary secretary?

**Mr. Pierre Guay:** No.

**Hon. Greg Fergus:** Did you have any with a ministerial adviser?

**Mr. Pierre Guay:** No.

**Hon. Greg Fergus:** Did you have any with a person appointed by the Governor in Council or by a minister on the approval of the

Governor General who exercises their official duties and functions on a full-time or part-time basis?

• (1725)

**Mr. Pierre Guay:** No.

**Hon. Greg Fergus:** Last, did you have any with the parliamentary budget officer?

**Mr. Pierre Guay:** No.

**Hon. Greg Fergus:** Thank you for confirming all that, Mr. Guay.

I would now like to come back to another question you were asked, this one by Ms. Khalid, that you were in the process of answering. It concerned the land you own. I imagine it has been owned by the Guay family for a long time, because I noted that on the northern boundary of your land there is Montée Guay. I imagine that is not a coincidence.

Can you tell us about that?

**Mr. Pierre Guay:** Yes.

My father was living on the farm and when he left the farm, he volunteered for the Royal Canadian Air Force. After returning from the war in 1975, he bought the land where we now are from his brother. As well, in the last 30 years, I have purchased approximately 225 acres of land along the border, adjacent to the Canada Border Services Agency border post. So our neighbours are customs, and we are here for our neighbours.

**Hon. Greg Fergus:** Thank you.

I can't finish without thanking your father, who served our country. Thanks to you as well, Mr. Guay, for agreeing to help the people seeking asylum in Canada.

Mr. Chair, I will yield the floor.

[*English*]

**The Chair:** Thank you. Now we go to Monsieur Lemieux for two and a half minutes.

Okay, he's passing. Go ahead, Mr. Green.

**Mr. Matthew Green:** Mr. Chair, I'm going to move to adjourn the study.

**The Chair:** Okay, a motion is made to adjourn the study.

Is there discussion. No?

Are there any opposed to adjourning the study, if I understand your motion correctly?

Go ahead, Mr. Barrett.

**Mr. Michael Barrett:** Thanks very much, Chair.

There was good information from our witnesses today. I think there were questions raised with respect to different agencies that weren't here, but also there were some requests to folks for documents.

My concern with adjourning the study is on the reporting that's to happen following it. Is that still going to continue? Will a report be completed, and then will that be reported to the House, or is the committee dispensing with this issue? Is that the intent of the motion?

**The Chair:** I would have to ask, or I'll let the mover of the motion give clarification, because that's going to be up to the committee.

**Mr. Matthew Green:** Thank you.

It's an important procedural question, and I would suggest that there was material information here. From my perspective, there are some gaps in the process that I'd like more information on. They're going to provide us with that information.

My intention in adjourning the study was to wrap up the witnesses, the scheduling, get back to our business, allow that information to come in and then draft a brief report or a debrief on what we think happened based on the testimony that has been provided today.

**The Chair:** Go ahead, Mr. Barrett.

**Mr. Michael Barrett:** Chair, through you, thanks to Mr. Green for that intent.

What we're looking at, then, is that the result would be to adjourn the meeting, and then the committee would decide whether or not to call any witnesses. Depending on how this motion goes, it seems that there would then not be any more witnesses called. The committee would then receive the evidence through the clerk, and then once we have the evidence that was requested, we could make a decision as a committee to provide drafting instructions.

Is that correct?

**The Chair:** Yes. I think, if I understand what the intent is, the committee will not ask for further witnesses and will receive the information that was requested. The committee can then decide what kind of report it wants to produce at a subsequent meeting.

Is there any further debate on the motion? Is anybody opposed to the motion?

• (1730)

**Mr. Matthew Green:** Just so we're clear, we're not adjourning the meeting, right? There's one point—

**The Chair:** Correct. We're not adjourning the meeting until I adjourn it, but we're getting pretty close to the time. If there's no opposition to the motion, the motion carries.

**Mr. Matthew Green:** Okay.

**The Chair:** With that, if there are no further questions for the witness, we'll conclude the witness portion of the meeting. I'm going to get this under the wire at our normal adjournment time, which I know members of the committee appreciate.

I'll just take a minute to thank the analysts for the very capable work that they do for us, as well as our clerk, and with that, the meeting—

Sorry. Go ahead.

**Mr. Matthew Green:** I don't know how the process works, but I'm going to take this moment and thank you for the way that you've chaired this committee. I think you've done an outstanding job in a very non-partisan way, I have to say. As far as committees go, you did a fantastic job, and if a special dispensation could be made to make sure that you stay here indefinitely, I would certainly make that dispensation—

**Voices:** Hear, hear!

**Mr. Matthew Green:** —but in a non-partisan way, I just want to thank you.

**The Chair:** You're all too kind. I wasn't going to address the serious possibility that I may not chair further meetings of this committee, but anyway, I do appreciate that.

**Mr. Matthew Green:** They love you on the way in and the way out and in between.

**The Chair:** Indeed, and with that, the meeting is adjourned.







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