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LAND-BASED CASINO EXPANSION IN ONTARIO - THE "TORONTO CASINO"

by Michael D. Lipton, Q.C. and Kevin J. Weber

In recent days, the Finance Minister of Ontario, Dwight Duncan, made headlines by openly musing about the possibility of the establishment of a new casino located in the city of Toronto. The idea has been bandied about for years, but the Finance Minister is the most senior official ever to make comments indicating openness to the idea.

"We have to maximize profits, and we haven't necessarily been doing that," Mr. Duncan told reporters. "Obviously, we wouldn't move on something like that without the city itself wanting it." Reports from *The Globe and Mail* newspaper indicated that the Ontario Lottery and Gaming Corporation (the "OLG") is favorable to the idea of a casino in downtown Toronto. City Councillor Doug Ford, brother and closest adviser to Toronto Mayor Rob Ford, said the administration would support a casino as long as the public is behind it.

The conversation takes place as the Government awaits the release of the strategic business review being conducted by the OLG. The Finance Minister's comments must be understood in the context of this review.

In early 2005, the Ontario government unveiled a gaming strategy plan which placed a moratorium on the approval of new casino sites, calling instead for the upgrading of existing gaming sites in response to increased competition and also for an increased focus on responsible gaming. The 2005 gaming strategy plan also made it clear that there was no plan to introduce Internet gaming as part of the OLG's offerings.

With the planning for the introduction of Internet gaming conducted and managed by the OLG having been underway for most of the last year, it is clear that the 2005 gaming strategy plan no longer represents government policy. As a result, during the first quarter of 2011, the OLG announced that it had initiated a strategic business review of its two core offerings, land-based gaming and its lottery business. This review is to examine all of OLG's business lines in order to determine a strategic direction for the future of gaming in the province. The goals of this process are to survey stakeholder perceptions regarding the future of lottery and gaming in Ontario, examine best practices within domestic and international markets, and identify opportunities

to work in new ways with the private sector or other stakeholders. The conclusions set out in the review's report are to be presented for Government consideration.

The report from the OLG is now expected within the next few weeks. In that context, and in the context of a moratorium on land-based casino expansion that has now lasted for seven years, the statements of the Finance Minister take on a stronger meaning.

In addition to overcoming any resistance that might exist within Toronto, any such plan would have to address concerns coming from other communities in Ontario with existing casino properties. Those communities would need to receive assurances that the in-province clientele for any new casino would not come at the expense of their existing clientele. One such community is Windsor, on the U.S. border with Detroit. In that context, it is interesting to note that the Finance Minister's openness to the idea of a Toronto casino comes despite the fact that he represents a Windsor constituency.

It is likely too early in the process to expect a decision on a Toronto casino in the near future. However, the Finance Minister's comments to reporters strike us as a "trial balloon" sent up by a politician who has been well-briefed on the likely contents of the upcoming report emerging from the OLG review, and who wishes to ensure some control over the terms of the debate that will likely ensue. We eagerly await the release of the report, with particular emphasis on how the OLG will address the concerns of existing casino-hosting cities such as Windsor, Niagara Falls, and Orillia.