



## Ontario Auditor General Slams Government's Use of NDAs in Scathing Greenbelt Report

*Report finds the Ontario government had public servants sign 93 confidentiality agreements, recommends putting a stop to their use*

**August 10, 2023** — Auditor General of Ontario Bonnie Lysyk has released [a scathing report](#) about the provincial government's decision to open parts of the Ontario Greenbelt to development — and in it, she calls out the Progressive Conservative government's prolific use of confidentiality agreements, also known as gag orders or NDAs.

The Auditor General found the government's process of releasing land from the Greenbelt — an 810,000-hectare area of farmland, forests and wetlands — was heavily influenced by a group of well-connected developers who stood to make billions. In the process, the Deputy Minister of Housing reportedly had the Greenbelt Project Team, a small team of non-political public servants, sign dozens of confidentiality agreements that prevented them from consulting with other key stakeholders.

"This effectively precluded the possibility of substantive input from other provincial ministries, municipalities, conservation authorities, Indigenous communities, subject matter experts and the general public," reads the report, titled *Special Report on Changes to the Greenbelt*.

According to the report, 93 confidentiality agreements were signed, including by individuals in relevant ministries who were involved in consultations, or who reviewed materials as the project developed.

"This is yet another example of how NDAs are used to cover up wrongdoing in the public sphere," says Julie Macfarlane, Emerita Distinguished Professor of Law at the University of Windsor and co-founder of [Can't Buy My Silence](#), a group that advocates against the abuse of NDAs. "Politicians promise openness and transparency, but behind the scenes, they're demanding that people sign gag orders. It's wrong anywhere, but especially in the public service, and it needs to stop."

The Auditor General agrees. One of the recommendations in the report is to strictly limit the use of confidentiality agreements, and to only allow them in highly confidential situations.

"In view of the oath of secrecy all public servants take, the use of confidentiality agreements should be limited to only those circumstances requiring a high degree of confidentiality," reads the report. "The agreements should not be a barrier to the ability of public servants to consult and collaborate with other staff and experts as may be necessary, including public servants employed in other ministries and offices."

Premier Doug Ford acknowledged the shortcomings of the Greenbelt process and said his government would accept all of the report's recommendations, but stopped short of reversing the land use decisions.

Non-disclosure agreements were initially used in workplaces to protect trade secrets. However, they are increasingly used to cover up abuses in businesses, governments, schools, youth clubs, universities, religious institutions, and other organizations.

Because of the efforts of Can't Buy My Silence and other advocates, a growing number of businesses and governments are shifting their policies, and BBC, Google and Apple are among the many organizations that have pledged to stop using NDAs to cover up misconduct. Seventeen U.S. states have also legislated to restrict the use of NDAs.

In Canada, political leaders in several provinces — including [Ontario](#), [British Columbia](#), [Manitoba](#) and [Nova Scotia](#) — have tabled legislation to end the use of NDAs in cases of harassment and discrimination, and in 2022, similar legislation was passed on [Prince Edward Island](#). A [federal bill](#) was also tabled earlier this year.

"If we continue to accept the use of NDAs to cover up information that the public should know — whether workplace misconduct, harmful products like tainted baby formula, or corruption in the municipal decision-making process — there is no end to the harmful consequences," says MacFarlane.

"Ontario began the process of ridding universities of NDAs covering up faculty sexual misconduct in the *Strengthening Post-Secondary Institutions Act* in 2022, and now needs to move to a much broader ban to protect victims of workplace misconduct, consumer defects, and local democracy itself."

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