
1. Referring to the GM response to the Curry Inquiry

The GM is likely relying on the legal effect of an order from the Ontario Land Tribunal (OLT) granting **draft plan of subdivision approval**.

When the OLT grants draft approval:

- The **subdivision is legally approved in principle**.
- The developer must clear **conditions of draft approval** (in your case ~185).
- The developer is typically allowed to conduct **site investigations** required to satisfy those conditions.

Examples include:

- geotechnical drilling
- environmental testing
- hydrogeological monitoring
- archaeological investigations
- soil sampling

These activities often **do not require a building permit**.

So the GM's statement that "**no permits are required for testing**" can be legally accurate **for certain types of investigative work**.

2. The key legal distinction (this is the technical hinge)

Ontario planning law distinguishes between:

Investigations required to satisfy draft conditions

vs.

Site alteration / construction activity

Testing can include:

- boreholes
- soil sampling
- monitoring wells

- environmental investigations

But once activities become things like:

- large-scale **soil stripping**
- **earth moving**
- **mass trucking**
- **grade alteration**
- **installation of drainage works**
- **erosion control structures**

those typically fall under **municipal regulation** such as:

- site alteration bylaws
- grading approvals
- tree protection bylaws
- conservation authority permits

Even if the subdivision itself is approved.

3. Why this distinction matters

The OLT does **not normally remove municipal authority over site alteration bylaws.**

Municipalities retain authority under:

- the Municipal Act, 2001
- the Planning Act

to regulate **grading, fill, and site alteration.**

That means:

Draft plan approval does not automatically authorize large-scale earthworks.

It only authorizes the **planning framework** for the subdivision.

4. Why staff often frame it this way

Municipal staff sometimes interpret the situation conservatively because:

1. **The OLT approval created development rights.**
2. The developer must access the land to complete studies.
3. Staff want to avoid **appearing to obstruct compliance with OLT conditions.**

So the internal interpretation becomes:

“They are just doing testing.”

But if the activity begins to resemble **construction-scale disturbance**, the legal footing becomes much less clear.

5. The quiet question that becomes very important now

Given what the GM said, the most revealing question you could ask staff is:

“Can staff confirm whether the current work has been formally classified by the City as investigative testing, or as site alteration under the Site Alteration By-law?”

That question forces the City to **define the activity legally.**

And once something is defined as **site alteration**, municipal regulatory powers reappear.

6. Why this is actually a very significant issue

In many Ontario redevelopment disputes, the **entire conflict hinges on how the activity is classified:**

Classification	Result
Investigative testing	Usually allowed
Site alteration / grading	Municipal permits and controls apply

Once **mass soil movement** begins, the argument that it is “just testing” becomes harder to sustain.

7. One thing very few people realize

The **OLT rarely rules on construction staging or soil disturbance methods.**

Its orders usually address:

- planning approvals
- subdivision conditions
- environmental studies

But **municipal operational control over earthworks usually remains intact** unless the order explicitly removes it.

And that subtle gap is where many disputes occur.