



ISSN 1180-5218

Legislative Assembly
of Ontario
Second Session, 38th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Wednesday 26 April 2006

Journal des débats (Hansard)

Mercredi 26 avril 2006

**Standing committee on
general government**

Stronger City of Toronto
for a Stronger Ontario Act, 2006

**Comité permanent des
affaires gouvernementales**

Loi de 2006 créant
un Toronto plus fort
pour un Ontario plus fort

Chair: Linda Jeffrey
Clerk: Susan Sourial

Présidente : Linda Jeffrey
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Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 26 April 2006

Mercredi 26 avril 2006

The committee met at 1548 in room 151.

ELECTION OF VICE-CHAIR

The Chair (Mrs. Linda Jeffrey): Good afternoon. The standing committee on general government is called to order. We're here today to commence public hearings on Bill 53, the Stronger City of Toronto for a Stronger Ontario Act, 2006.

Our first item of business is the election of a vice-chair. Are there any nominations?

Mr. Kevin Daniel Flynn (Oakville): I woke up about 3 o'clock in the morning and I had this thought: that the person who would make the best vice-chair for this committee would be the member from Stormont–Dundas–Charlottenburgh, Mr. Jim Brownell.

Mr. Brad Duguid (Scarborough Centre): A visionary.

Mr. Flynn: It was a vision, so I'll move it.

The Chair: Are there any other nominations? Seeing none, Mr. Brownell, I presume you accept that nomination?

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh): I so accept.

Mr. Ernie Hardeman (Oxford): No campaign speech, no nothing?

Mr. Brownell: I accept with an open heart, ready to do what work is required on the committee.

Mr. Hardeman: That's the trouble with only one nomination: We just don't get a real campaign going.

Mr. Duguid: Ernie, I tried to nominate you, but they wouldn't let me.

The Chair: Thank you. Seeing there are no other applicants for this great job, I declare Mr. Brownell elected as vice-chair of the standing committee on general government. Congratulations.

SUBCOMMITTEE REPORT

The Chair: Our next item of business is the report of the subcommittee on committee business. Could I ask someone to move the subcommittee report and read it into the record? Do I have a volunteer?

Mr. Mario G. Racco (Thornhill): Ask the vice-chair.

The Chair: The vice-chair? I think that's a good idea. Mr. Brownell, would you mind reading the subcommittee report?

Mr. Brownell: Okay. I wasn't at that meeting, and I was hoping that somebody who was at the meeting—okay. I'll read the report.

Your subcommittee on committee business met on Thursday, April 13, 2006, and recommends the following with respect to Bill 53, An Act to revise the City of Toronto Acts, 1997, (Nos. 1 and 2), to amend certain public Acts in relation to municipal powers and to repeal certain private Acts relating to the City of Toronto.

(1) That the committee hold up to four days of public hearings at Queen's Park on Wednesday, April 26, Monday, May 1, Wednesday, May 3, and Monday, May 8, 2006, and two days of clause-by-clause consideration on Wednesday, May 10, and Monday, May 15, 2006.

(2) That the committee clerk, with the authority of the Chair, post information regarding the committee's business on the Ontario parliamentary channel, the committee's website and one day in the Toronto Star.

(3) That the Chair and committee clerk be authorized to schedule any requests received by April 13, 2006, and that these witnesses be scheduled on Wednesday, April 26, and Monday, May 1, 2006.

(4) That interested people who wish to be considered to make an oral presentation on Bill 53 should contact the committee clerk by 5 p.m., Monday, April 24, 2006.

(5) That on Tuesday, April 25, 2006, the committee clerk supply the subcommittee members with a list of requests to appear received after April 13, 2006.

(6) That, if required, each of the subcommittee members supply the committee clerk with a prioritized list of the names of witnesses they would like to hear from by 4 p.m., Wednesday, April 26, 2006, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(7) That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses from the prioritized lists provided by each of the subcommittee members and that these witnesses be scheduled on Wednesday, May 3, and Monday, May 8, 2006.

(8) That, if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties and no party lists will be required.

(9) That groups and individuals be offered 15 minutes in which to make a presentation.

(10) That on Wednesday, April 26, the minister be invited to make a 15-minute presentation followed by 15 minutes of questions and answers (to be divided equally among the three parties).

(11) That the deadline for written submissions be 12 noon, Monday, May 8, 2006.

(12) That the research officer prepare a summary of the testimony heard.

(13) That a deadline (for administrative purposes) for filing amendments be determined on the last day of public hearings.

(14) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Thank you very much, Mr. Brownell. Are there any comments or questions on the report of the subcommittee?

Mr. Hardeman: I'm not suggesting that there's anything wrong with the report as it was prepared by the subcommittee, but there was an assumption made during the subcommittee meeting—at least what I came away with. I think it goes to number 7. I guess that's where it starts: "That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses from the prioritized lists provided by each of the subcommittee members." It was assumed that, because of the tight time frames—and we had some discussions at the time that the advertising would hopefully go out before the holiday weekend, but as it turned out, that didn't happen. So in fact the time frame for the advertising and today, when the first would be heard, was going to be very, very short. That's why it was decided that we would schedule the first two days of hearings from the list where people had applied to be heard prior to any advertising being done—in fact, prior to the bill being referred to the committee for review. We'd then advertise it and we would then hopefully have sufficient time in the other two days to hear all those who wanted to be heard in subsequent days.

As the numbers have now come forward, it seems that by the deadline, we had more people apply to be heard than what these extra two days will allow us to hear. My understanding was that if that was necessary, we would then have one more day of hearings in order to accommodate those who had applied prior to the deadline. If one doesn't do that, then I think we have this problem that in fact we gave preferential treatment to people who knew what was happening and that they got their name in first because they were not picked out of a list; they were just granted an opportunity to be heard. The other two days we're dividing up with all those who, after we advertised, knew about it, so then they sent in their application.

I'd like to suggest that, as a modification or an amendment to the plan, on the first day that's recommended for clause-by-clause, we schedule one more day of hearings

to hear all those who had their application in to be heard prior to the deadline.

The Chair: Speaking to the amendment, Mr. Duguid.

Mr. Duguid: One of the problems we have right now is, we have a considerable amount of legislation that we have to get through, that we'd like to get through for this spring session. This is one of the very important pieces of legislation that we're very determined, as a government, to ensure is passed. It's important to the city of Toronto and, frankly, it's important to the entire province that this legislation get dealt with.

I don't know how many deputants have applied that are outstanding right now, but if there are some—and I don't think there are a great many—perhaps we could consider, not today but for subsequent days, looking at maybe lowering the time given to each deputant to try to get those other deputants in. That's something we'd consider. I think we're looking at 15-minute deputations. Perhaps we could amend that to 10-minute deputations, which will probably provide enough time, I think, to get in the outstanding deputants that want to speak that are on the list right now, although, again, I'm not fully briefed on the number that is outstanding at this point in time.

The Chair: Maybe to assist in everyone's decision, we could ask the clerk how many deputants are outstanding.

The Clerk of the Committee (Ms. Susan Sourial): These are deputants who applied by the 5 o'clock deadline. There are seven that were not able to be scheduled. We have also had applicants since the deadline, but up to the deadline there are seven that couldn't get in.

Mr. Hardeman: I would be prepared to just add on the seven. In fact, we could hear them all in the first day of the clause-by-clause and then start clause-by-clause at the end of those deputations. In fact, if it requires a full extra day, it would still only prolong or extend the time of the hearings a maximum of three days. Since we are scheduled to be in the Legislature till mid- to the end of June, I don't see that three days longer in committee would in any way infer that this would not be passed prior to the end of the sitting.

I think it becomes very important that the appearance of a public hearing process is at least fair to everyone, and the way it's been so far, it is not fair to everyone. In fact, there was great preference given to those who applied before the bill went to committee.

Mr. Duguid: Perhaps the member might want to consider what I'd suggested in terms of lessening the amount of time given to each deputant for future days. I think that would probably free up enough time for us to hear the deputants, and if not, what time is left, maybe we could then look at some kind of an accommodation in that sense. Perhaps a suggestion, to help out, would be that we could meet as a subcommittee after the hearings tonight just to quickly consider what the options are, and if we can come to a suggestion, we can bring it to the committee on our next day of hearings, which is next week. Would that be all right?

Mr. Hardeman: I would say, as the clerk is speaking, that one of the challenges is going to be that the time slotted for the people who have been accepted will be at 15 minutes and by next week there will be no opportunity to change that time to 10 minutes or seven and a half minutes. If that's one of the options the parliamentary assistant is suggesting, I've never been at a committee hearing where the time was less than 15 minutes for presentations, because that really doesn't give someone the opportunity to speak to a bill that's—I don't know how many pages, but it's a half an inch thick. I think it's inappropriate to go less than 15 minutes for a presentation.

The Chair: Another fly in the anointment is, it's difficult to schedule and give people adequate notice to get here, as the clerk is notifying me.

Does anyone else want to speak to this amendment?

Seeing no further speakers, all those in favour of the amendment? Oh, Mr. Sergio.

Mr. Mario Sergio (York West): Madam Chair, before you move, evidently we would like to accommodate especially those who put in their request before the 5 o'clock time. The others we can request that they submit written presentations. There are seven applicants, I believe, that were prior to the deadline. So we are looking at just over an hour, 70 minutes, with seven at 10 minutes each. The committee may want to consider starting a bit earlier and giving them the time before clause-by-clause as an alternative.

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The Chair: Mr. Duguid.

Mr. Duguid: Perhaps if the subcommittee could consider this afterwards, we'll see if we can accommodate, as best we can, those members. I think that's probably the best way to do it. Then we can talk to the clerk and figure how best to do it.

The Chair: Mr. Hardeman.

Mr. Hardeman: I don't have any problem with the subcommittee making a decision on it. I guess I would just caution that time is of the essence. If the parliamentary assistant is suggesting that we're going to use the shortening of time, I don't think that's going to be an option we could consider if the subcommittee has to bring it back to the next full committee. In timing, and just to make sure we all understand, the bill is not time-allocated, so how long our clause-by-clause takes is a matter of committee practice. There is nothing that would suggest that the committee's clause-by-clause will be finished the night of the clause-by-clause; it depends whether the committee is prepared to vote. So I would suggest that there seems to be a very good option to just add the delegations that we're speaking of on the first clause-by-clause day, and I think our problems would be solved. But I'm willing to let it go to subcommittee.

The Chair: Great. So you're going to step down your amendment, and we will vote on the report of the subcommittee. All those in favour? All those opposed? That's carried.

STRONGER CITY OF TORONTO
FOR A STRONGER ONTARIO ACT, 2005

LOI DE 2005 CRÉANT
UN TORONTO PLUS FORT
POUR UN ONTARIO PLUS FORT

Consideration of Bill 53, An Act to revise the City of Toronto Acts, 1997 (Nos. 1 and 2), to amend certain public Acts in relation to municipal powers and to repeal certain private Acts relating to the City of Toronto / Projet de loi 53, Loi révisant les lois de 1997 Nos 1 et 2 sur la cité de Toronto, modifiant certaines lois d'intérêt public en ce qui concerne les pouvoirs municipaux et abrogeant certaines lois d'intérêt privé se rapportant à la cité de Toronto.

STATEMENT BY THE MINISTER

The Chair: I'd like to introduce Minister Gerretsen, who has agreed to be here today. Minister of Municipal Affairs, thank you for coming and agreeing to speak to us for 15 minutes. Following that, each party will have an ability ask you a question, because we've allowed 15 minutes total to ask you questions. Welcome.

Hon. John Gerretsen (Minister of Municipal Affairs and Housing): Thank you very much, Madam Chair. It's good to be here.

I would just like to introduce two individuals that are sitting right next to me: On the left is Ralph Walton, who's the director of municipal governance and structures branch within municipal affairs and housing; on my right, Janet Hope, who's the director of the municipal finance branch. They're supported by a number of other staff and individuals from the ministry that are here as well. Of course, in the room as well we have Mayor David Miller and Shirley Hoy, the city manager for the city of Toronto. I understand that the mayor will be presenting after I do.

Let me first of all say that this whole process with respect to the new City of Toronto Act, Bill 53, has been a most exciting, stimulating and rewarding one for me personally and, I know, for the ministry as we've gone through this process. It has been truly something that I've thoroughly enjoyed being involved in. I think that in the long run we will get the best legislation possible in order to make the city of Toronto work and function to the best of its ability, because I think we all benefit from that in the province in Ontario. I too look forward to all of the various views that will be brought forth on this bill from all the deputants. If there are good amendments that come out of that, we will certainly consider them, because only by working collectively can we come up with the best bill for the people of Toronto and Ontario.

It's a very important piece of legislation. I know we say that probably about every piece that's brought before this committee and other committees as well, but I really and truly believe that this will allow the city of Toronto to be brought into the 21st century from a governing viewpoint. We all know the historical background of how

municipalities fit in with respect to provincial and federal governments: They really have no status at all, other than the fact that they come under provincial jurisdiction. Although we can't change the Constitution here, because this is not the right forum for it, I think we truly have the next best thing here in this bill, which will allow the city of Toronto, its elected officials and its dedicated and hard-working staff to function at the absolute best level possible for the people of Toronto.

Just as a brief overview, the aim of Bill 53 is to:

- provide the city of Toronto with broad permissive powers;

- increase integrity and accountability. An awful lot of that is already present there, I must say, through various actions that the city has taken, but this gives it the legislative authority that will ensure that it will continue that way in the future;

- enhance governance and delegation powers, which are absent in the current situation; and

- provide greater flexibility in land use planning.

As our Premier has said about this bill, "As one of the world's great cities, Toronto will now have the autonomy to be as dynamic ... as competitive ... and as successful as the people who have chosen to make their homes, and their living, here."

We as a government realize that Toronto faces stiff competition from cities around the globe and are taking steps to help the city compete effectively. We introduced this legislation in order to provide Toronto, the engine of Ontario's economy, with the tools it needs to prosper in a competitive global economy.

"Toronto is a 21st-century city governed by 19th-century laws. It's long past time that we had a modern set of rules." That was stated by Glen Grunwald, the president and CEO of the Toronto Board of Trade when Bill 53 was first introduced last December.

Our government believes that this is the time to recognize the mature status of the city. As the Premier stated, "The city of Toronto grew up a long time ago. It is time for the law to catch up."

Bill 53 will bring about a reshaping of the relationship between the province and the city of Toronto, and it will make the city more fiscally sustainable, autonomous and accountable. In order for you to better appreciate the full scope and intent of this legislation, I would like to provide some context.

Since September 2004, our government has been working hand in hand with the city to help Toronto leap into the 21st century. Such dynamic co-operation is unprecedented and demonstrates our government's commitment to ongoing and reciprocal consultation with the city. We recognize that it's in the best interests of the province and the city of Toronto and, indeed, of all Ontarians outside of the city of Toronto to consult with each other on matters of mutual interest. We intend to establish a process for the provincial government to consult the city and its elected representatives, and the legislation also would obligate the city to similarly consult with the province on issues that it is interested in that affect provincial interests.

Bill 53, as I mentioned before, is the product of a joint effort, with the city and provincial governments working in partnership. Our goal was to create a framework of broad and enabling powers for the city of Toronto which, amongst others:

- gives the city broad permissive powers, subject to provincial involvement in areas of significance and of interest to the province;

- recognizes that, in order for the city to provide good government, the city must be appropriately empowered; and

- fosters a strong consultative relationship between the province and the city that respects and advances the interests of both governments.

A joint provincial/city of Toronto task force worked together for more than a year to develop a series of recommendations for a new legislative framework for the city. This joint task force recommended a bold new approach, proposing changes in a number of areas, including governance, finance and planning.

A key part of the joint task force work was consultation. As you all know, there's no shortage of views and suggestions on how the province should change the way Toronto is governed and how the city should govern itself. Stakeholder and public participation was a monumental aspect of how this legislation evolved. Brad Duguid, my parliamentary assistant, and I have had many meetings with stakeholders to discuss Toronto's future, and some of these same groups will be appearing before your committee in the coming weeks.

Also, in order to hear citizens' views and to gather the best possible input, the work of the joint task force was complemented by a unique, jointly conducted public consultation process last June. I believe it was the first time that the province and the city had worked together in a joint consultation of the nature and scope that that provided at that time. Online consultations provided further input for the public to provide us with extremely valuable input, and the views and recommendations of concerned citizens from all walks of life, quite frankly, were instrumental to the development of this bill.

I would first of all like to outline for you some of the new powers that this legislation proposes for the city of Toronto.

1610

We recognize that Toronto is a responsible, accountable, mature government, and Bill 53 proposes freedoms that would be considered significant to any Canadian municipality. We began from the principle that the city exists for the purpose of providing good government with respect to matters within its jurisdiction. We believe that city council is a democratically elected government that is responsible and accountable.

The aim of Bill 53 is to create a framework of broad powers for the city that balances the interests of the province and the city and recognizes that, to provide good government, Toronto must be able to do the following things:

- determine what's in the public interest for the city;

- respond to the needs of the city;

- determine the appropriate structure for governing Toronto;
- ensure that the city is accountable to the public and that the process for making decisions is transparent;
- determine the appropriate mechanisms for delivering municipal services in Toronto;
- determine the appropriate levels of municipal spending and municipal taxation for the city; and
- use fiscal tools to support the activities of the city.

The bill allows the city to pass bylaws regarding matters ranging from public safety to the city's economic, social and environmental well-being. These future bylaws could also deal with the financial management of the city and the accountability and transparency of its operations.

These broad permissive powers would permit the city to promote and support things that it wants to see happen and regulate or prohibit those that it simply does not.

These new powers should be interpreted broadly. The city needs broad authority to enable it to govern its affairs as it considers appropriate, and we need to enhance the city's ability to respond to municipal issues.

Currently, the city is limited in its powers to determine even the composition of its council and the ward boundaries, which I believe applies to no other municipality in this province. Under the proposed legislation, Toronto would have the same powers as other municipalities to establish the council composition and ward boundaries that would work best. This would let the city be more responsive to changing demographics and its own governance needs. If this legislation passes, Toronto will gain enhanced powers, such as the ability to determine its own governance structure.

Currently, Toronto city council is limited in the decision-making it can delegate to committees and boards. Under this bill, it would have greater ability to delegate powers and responsibilities, and this would give the city the flexibility it needs to better manage its deliberations and to streamline decision-making.

In its report released last fall, the Governing Toronto Advisory Panel stated the following:

“City council should spend its time on what is truly important. At present, city council often spends more time debating items that affect only one or a handful of wards, or issues not nearly as significant as the files it must soon address.” Those were the comments from the Governing Toronto Advisory Panel.

This bill, if it passes, will give the city broader powers to license and regulate businesses. It will also provide the city with more flexibility to raise revenue in addition to property tax. If passed, it will provide broad permissive authority to impose new taxes except in the areas specifically prohibited therein, such as income tax, gas tax or wealth tax.

Bill 53 will provide increased flexibility to establish municipal corporations. The legislation also will provide broader authority to undertake economic development opportunities to make the city more competitive and prosperous.

Right now, the province sets bar hours and regulates the hours that Toronto businesses can remain open on certain holidays. This does not make a lot of sense. This bill, if passed, will give Toronto the flexibility it needs to extend bar hours to meet local needs, and to regulate store closings to reflect the preferences of a diverse multicultural society.

The city will have more power to control its own destiny with the passage and enactment of this bill.

Increased accountability: The bill will provide for a strengthened accountability framework for the city of Toronto. It will require the city to establish a lobbyist registry, integrity commissioner, ombudsman and auditor general. Some of this it is already doing, but this would make it a legislative responsibility and obligation. We believe that this would improve accountability and transparency.

The Governing Toronto Advisory Panel report commented on the need for strategic leadership. It stated, “Toronto needs a government that deliberates and acts strategically—at a city-wide level, with a long-term perspective, and through a coordinated policy approach.... We feel strongly that the mayor should be given the tools to provide strategic leadership for city council.”

City council is expected to make a final decision on the Governing Toronto Advisory Panel's report's recommendations next month. Although Bill 53 makes provision for this province to act on the governance issue, we remain confident that such action will not be required and that the city will act on the recommendations of the panel rather than having the province act. As the Premier said on the day Bill 53 was introduced, “If they want to change how they provide important public services ... if they want to modernize the rules on municipal roadways ... if they want to recognize the unique character of a neighbourhood, they will have the power and autonomy to do so.”

Land use planning: I'd like to provide some perspective on land use planning. Bill 53 is fully complemented by another proposed piece of legislation, namely Bill 51, the Planning and Conservation Land Statute Law Amendment Act. This legislation supports our government's priorities of managing growth, reducing urban sprawl, promoting intensification and preserving green space in Toronto, across the GTA and indeed across Ontario.

Our government's proposed planning reforms would shift decision-making to the front end of the planning process and be more focused at the municipal level. Our proposed reforms would ensure that the Ontario Municipal Board hears appeals based generally on information and material provided to municipal councils and the public, and truly become an appeal body.

Municipalities will also be able, upon meeting certain prescribed conditions, to set up a local appeal body to deal with local issues such as minor variances and consent matters in which the provincial interest is not involved. Municipalities will have new powers to regulate

exterior building design to influence how buildings and communities look and feel.

When approving zoning applications, they would be able to impose conditions to address development challenges—for instance, ensuring brownfields cleanup or energy efficiencies. There would be greater public input into planning decisions earlier in the process, and participation during the process would be required in order to have the right of appeal.

The Chair: Minister, you have about 30 seconds.

Hon. Mr. Gerretsen: Thirty seconds? Then I'd better go to the conclusion right away. I was going to talk about some of the other initiatives as well. Suffice it to say, I've got all sorts of quotes here from the Toronto Star, the Toronto Board of Trade, David Pecault, John Cartwright—my gosh, who wrote these notes, anyway? They're much longer than 15 minutes.

Let me just say that this has been an exciting process. I look forward to the deliberations that this committee will be involved in. I wish you well in your deliberations and hope that the bill that will come out of this committee will only strengthen what we regard as an already very strong bill for the city of Toronto and for the people of Ontario.

The Chair: Thank you very much, Minister. I didn't want to cut you off; I could tell you were very excited by the legislation.

Hon. Mr. Gerretsen: Oh, I have five seconds left?

The Chair: No, you've exhausted your time.

We've agreed in subcommittee that all three parties would be allotted five minutes to ask questions, beginning with Mr. Hardeman. Perhaps you'll be able to embellish some of those answers with some of the quotes that you have.

Mr. Hardeman: Thank you very much, Minister, for the presentation. I find it interesting that as I went through the bill, I didn't find enough that would make an interesting 15-minute speech about the things which are different from the present City of Toronto Act and the present Municipal Act. I just want to zero in on that: the issue of what there is in the new City of Toronto Act that gives powers to Toronto that do not presently exist in the Municipal Act for all municipalities.

Going on with that, I would also like to hear what you believe the difference is between Toronto as a governance and all other municipalities that would require a separate act to give Toronto the ability to set bar hours, while the city of Mississauga doesn't get to set bar hours because it's not a mature level of government—I had to take that from your presentation. What is there that makes this different, other than the three taxing areas, from an updated Municipal Act that would cover municipalities? Would that not have done the same thing?

1620

Hon. Mr. Gerretsen: Let me assure you that I certainly think that the cities of Mississauga, Brampton and many other communities in this province are mature levels of government as well, in the same way that the city of Toronto is.

In its most basic form, this bill, which goes for some 300 pages, encompasses the 300 bills that affect the city of Toronto in one way or another. That's just in its purest form. But this does much more than that. The city of Toronto right now is hampered in its governance situation much more than any other municipalities. It can't change the ward boundaries, it can't delegate many authorities that other municipalities have, and I could just go on and on. That's as a result of an act that your government passed six or seven years ago. Okay? You limited the ability of the city of Toronto to a much greater extent than other municipalities.

The other point, and both you and I are not from Toronto and I totally appreciate that: I think the people outside of Toronto really feel that if Ontario is to succeed and your community and my community are to succeed, it is absolutely essential that Toronto succeeds. It's the engine of this province. There are so many other areas that we deal with. It could very well be that this new City of Toronto Act could almost be a model for the rest of the municipal world.

Mr. Hardeman: I guess, Minister, that's really my question. I'm not suggesting that I'm opposed to the City of Toronto Act or the need for a City of Toronto Act. What I'm suggesting is, could this not be the framework for the reform to the Municipal Act that your government has been talking about for some time, that actually, instead of doing all the work for one area of the province, these things could have been done for the province in general?

Hon. Mr. Gerretsen: We felt there was a need to deal with the city of Toronto first because it was hampered and restricted more than any other municipality. Have we used this act to sort of do our current review of the Municipal Act? To a large extent, yes; not to every extent, but to a large extent. We always realized there are some smaller municipalities that will always need the assistance and help of the provincial government because they simply do not have the expertise from within etc. We certainly felt that this was the way to go with the city of Toronto first of all.

You know, I could be talking about governance. I could be talking about broad, permissive powers. The current Municipal Act talks about spheres of powers. We've gone much further than that. We've gone into areas where right now provincial approvals are required from probably about 15 different ministries, where we basically asked a simple question: In a lot of those approval processes, what is the provincial interest? If there is no provincial interest, the province shouldn't be involved.

I basically work on the theory that the people who are elected at the local level, whether they're in Toronto or elsewhere in this province, are just as accountable, just as legitimate, just as dumb and just as smart as the people sitting around here at Queen's Park or federally. That is the basic premise we work on. I could go on and on as to what is included in this act that perhaps you haven't had an opportunity to research to the same extent, but I can assure you that this will give the city of Toronto much

greater authority to deal in a whole bunch of areas where it simply cannot do so now, including of course the new fiscal tools that we've provided for the city of Toronto.

The Chair: Thank you, Minister. Mr. Tabuns?

Mr. Peter Tabuns (Toronto–Danforth): Thank you, Minister, for coming here today and making the presentation. I'm concerned that recent actions of your government are contrary to the spirit of the legislation that's before us. I speak particularly about the Portlands Energy Centre. As you're well aware, the mayor and members of the council have made very clear the way they want the province to deal with energy needs for the city of Toronto. Their interests and their analysis have been set aside, and I don't think that bodes well for this bill, notwithstanding the fact that there are things in here that are very useful. I'm speaking as a former member of Toronto city council.

Having said that, one concern I have is that Bill 51, coming forward, gives the province the power to override municipal zoning when it comes to energy facilities. So if you decide that you want to put a power plant somewhere in a municipality, under that bill you will have the ability to simply plunk it down. How does that sit with Bill 53, with your intention to give the city of Toronto more autonomy? Will the city of Toronto have its zoning respected, or will you use Bill 51 to override the zoning of the city of Toronto and essentially set aside Bill 53?

Hon. Mr. Gerretsen: You are correct that in Bill 51, the way it's being debated in the House right now, there's a clause that says energy projects are exempted from the planning process, or planned to be exempt from the planning process. As far as the energy aspect of it, I'll leave that to the Minister of Energy to discuss.

We quite simply felt it's important to keep the lights on in this province. That's paramount. We saw the destructive aspect it had in August 2003, when the lights went off. So that's number one. Number two, we feel that there is an environmental assessment process that will deal with many of the same issues that are included in the Planning Act. Quite frankly, we felt to a certain extent there was duplication of services. We're also saying at the same time—and this has also been raised, for example, by the mayor of Mississauga at some meetings we've had with her—that a protocol has to be put in place as to how these electricity and energy issues are going to be dealt with.

I'm not suggesting for a moment that there aren't going to be times when the provincial interest and a municipal interest, whether it's Toronto or elsewhere, may be in some sort of conflict. That may happen. Perhaps this isn't going to deal with all the problems in the world, but it's going to deal with an awful lot that shouldn't be there right now. I'll just leave it at that.

Mr. Tabuns: Okay. If I still have time, I first of all want to say that I have no doubt whatsoever that our friends from the city of Toronto want to keep the lights on as well. I would say, frankly, that they approached the whole question quite responsibly at every step, looking to make sure that any changes they proposed would still

ensure that the lights would be on and people in the city of Toronto would have power. That being said, they put forward a very practical approach that was not accepted by your government.

One of the things that you've just told us is in this legislation is the ability of the city to determine conditions for environmental well-being. You talked about efficiency standards. Can you tell us right now that this legislation will allow the city of Toronto to set building code standards so that the efficiency of buildings that are built in this city meets a standard that will allow, for instance, a reduction in demand for power, thus keeping the lights on?

Hon. Mr. Gerretsen: All provincial acts will continue to apply, including the building code. I can tell you that right now we're looking at the building code from an energy efficiency viewpoint. If you could just give me a moment—I've got nothing further to add to that.

Mr. Tabuns: Okay. If I understand what you're saying, notwithstanding your presentation, the city of Toronto couldn't set a standard for efficiency higher than the building code, thus allowing it to address its energy crunch.

The Chair: You have about 30 seconds to answer that.

Hon. Mr. Gerretsen: I would have to get back to you on that.

Mr. Tabuns: I'd appreciate that.

Hon. Mr. Gerretsen: Okay. I'll get back to you on that.

Mr. Tabuns: You've said there are certain taxes that would be allowed and certain that would not be allowed. Would you allow the city to tax energy consumption outside of gasoline, which is the one energy source you cited in your comments?

Hon. Mr. Gerretsen: There are three main areas that are not included in Bill 53. That's income tax, sales tax and gas tax.

The Chair: Thank you, Minister. From the government side, are there any questions?

Mr. Duguid: Madam Chair, if we skip ahead to the deputants, we'll forgo our questions. Otherwise, we'll take our time.

The Chair: I think we can go ahead and go to our deputants. We thank Minister Gerretsen for being here. We appreciate you sparing the time to speak to us.

Hon. Mr. Gerretsen: Thank you very much, and good luck in your deliberations.

CITY OF TORONTO

The Chair: I'd like to welcome our witnesses and tell all of them that they will have 15 minutes to make their presentation. When you come forward, if you could state your name and your title for the purposes of Hansard. Our first deputation today is Mayor Miller.

Mr. David Miller: Thank you very much, Madam Chair, members of committee. We appreciate very much the opportunity to be here today. On my left is Shirley

Hoy, the city manager of the city of Toronto; on my right is Phillip Abrahams from the city manager's office. I would just like to alert members that I am going to give a concise version of my remarks so there is an opportunity for questions, in view of the time.

It's a pleasure and a privilege to appear before the standing committee this afternoon to review Bill 53. This bill marks an historic milestone in the life of Canada's largest city and for all Ontarians, an achievement of which we can be proud.

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I'd like to acknowledge the leadership of Premier Dalton McGuinty, Municipal Affairs Minister John Gerretsen and our former colleague, MPP Brad Duguid, and thank them for recognizing Toronto's need for a modernized legislative framework.

Much has changed since 1834, when Toronto became a city. Then, the population and economy were rural, trade was local and growth was on untouched land. Today, Toronto has over 2.6 million people and is the heart of a dynamic economic region of 5.5 million people and growing.

Clearly, a one-size-fits-all, highly prescriptive legislative framework is totally inappropriate for a city of Toronto's modern size and responsibilities. We need a modern framework that provides Toronto and its government with the autonomy, authority and accountability to provide good government and high-quality services.

I'm pleased with the bill's explicit recognition of Toronto as Canada's economic engine, with a mature order of government capable of exercising its powers in a responsible and accountable fashion.

Toronto's new ability to directly enter into agreements with other governments sets the stage for the long-term, multi-faceted package of reforms needed to resolve the city's systemic fiscal imbalance.

Provisions for ongoing consultations with the province under agreements will ensure Toronto's place at the table on matters of mutual interest.

Empowering council with broad and permissive powers to provide good government and determine the city's best interests represents a truly historic departure. These measures will facilitate creative problem-solving, support stronger intergovernmental relations and change the way Torontonians think about their city government.

In keeping with the broad and permissive power framework, there is now clear authority for council to provide any service necessary for the public and to effectively legislate for the well-being of its people. This means not having to again fight all the way to the Supreme Court for city initiatives like the pesticide bylaw that is protecting the health of our children and the environment.

The bill also provides the city with the general authority to levy taxes, subject to certain limits. In following the debate on the bill, I know some have raised concerns. To be clear, these new revenue powers alone will not resolve the city's long-term structural fiscal imbalance, which can only be addressed through discussions and

initiatives with the provincial and federal governments. Council will continue to undertake a strong consultation model in deciding whether and to what extent any new revenue powers are needed to help our city thrive.

Along with the planning reforms under Bill 51, we also look forward to new powers to better shape our urban environment. These include more controls on the demolition of residential rental properties, promoting green roofs to reduce energy consumption and faster approval for community improvement plans and brownfield remediation.

Just to help our colleagues who were out of the room, I'm reading from a shortened version in the interests of time.

We're also pleased that the bill restores the city's powers to determine its own governance structure. It gives Toronto back some of the most basic powers, like drawing its own ward boundaries. More importantly, the legislation will equip us with the necessary powers to delegate truly local matters appropriately, allowing city council to focus on city-wide leadership.

Accountability continues to be an important part of city government. The city looks forward to putting in place new accountability measures which it asked the province to include in Bill 53 and which are needed to respond to the Bellamy inquiry.

As good as the bill is, though, there is some room for improvement. Our written submission goes into more detail on our proposed amendments, but I'd like to highlight a few.

With respect to the city's autonomy, there are well-understood provisions in the bill that ensure city bylaws will not be in conflict with provincial or federal laws. However, the bill goes further and prohibits bylaws that might be deemed to "frustrate the purpose" of such legislation in subsection 11(2). This introduces, in our view, an unnecessarily wide degree of uncertainty and potentially unhelpful interpretation by the courts. The city requests striking out subsection 11(2) and adding a provision that deems city bylaws on local matters not to be in conflict with provincial statutes or regulations.

Similarly, the city strongly urges striking out section 25, which allows cabinet to limit by regulation the city's general powers under sections 7 and 8 and its general power to tax under section 262. These regulatory powers would be new and very broad, and inconsistent with the intent of Bill 53 to empower the city.

Also inconsistent with the bill's empowering approach are the numerous limits that might be imposed through regulation. Council should be allowed to establish by bylaw the policies needed to manage affairs within its own jurisdiction.

Property tax is the principal source of revenue for city services. Council has recently approved a long-term plan that responsibly begins to address historic disparities among various property tax classes. Moreover, the city needs the ability to create or modify tax classes, like creating a small-retail class to stimulate job creation. As a mature order of government, the city needs full control

over its property tax base and access to broader revenue sources, such as income and sales taxes that grow with the economy.

The city needs the authority to create a local appeal process for all planning matters, not just minor variances, to properly protect neighbourhoods and stimulate appropriate city building. We also need inclusionary zoning authority to ensure that affordable housing is available for our most vulnerable residents.

To build on environmental commitments, the city needs its own environmental assessment process for projects that have only urban local impacts and where the city is the proponent.

Finally, the bill appropriately imposes an accountability regime on the city to complement more authority and autonomy. However, it does fall short in providing a full statutory framework that allows us to follow the blueprint laid out by Justice Denise Bellamy, such as control over lobbying and further empowering our integrity commissioner.

I have highlighted in my remarks how Bill 53 is a historic step for the city, the province of Ontario and Canada, and how it will make a strong Toronto an even more dynamic place to work and live. However, we need to recognize that important changes inevitably raise concerns, particularly when at this stage we can't definitively say how council will use its new powers.

Toronto's government is the most open, consultative and responsive order of government, with a very proud tradition of transparency and accountability. The city will continue to use its careful policy development process to prepare for these new authorities and ensure that new authorities are used wisely.

The bill also enshrines our new relationship with the province based on mutual respect. I have invited Minister Gerretsen to begin work so that a memorandum of understanding on ongoing consultations is in place even before the bill comes into force. I would also request that the new act be in force in time for the new term of council, i.e., December 1, 2006.

With this bill, together with the amendments we have proposed and our ongoing consultations, the province will have truly put Toronto in a position to succeed and to realize its tremendous potential as a world city.

Thank you, and I look forward to your questions.

The Chair: Thank you. You have left about two minutes for each party to ask questions, beginning with Mr. Tabuns.

Mr. Tabuns: Mayor Miller, could you speak very briefly to the idea of a city of Toronto environmental assessment act: where you would see it as appropriate in situations where the province's legislation wouldn't be and vice versa?

Mr. Miller: Sure. First of all, I have to say that the comments I made are on behalf of council—it's council's official position. I'm here in that capacity. We think the act as a whole is superb. The improvements we have suggested are just to make it even more superb.

I see an opportunity in environmental assessment issues; for example, in public transit. By definition, new public transit is good for the environment, yet the city of Toronto spends millions and millions of dollars each and every year on environmental assessments for public transit; for example, in the port lands. If we are able to have authority to undertake our own public consultation process to meet similar goals, we would be able to do that more efficiently, cut red tape and also protect the environment. It's on those kinds of issues that we're interested in having greater latitude.

Mr. Tabuns: I understand, as well, that you will have some authority in this act to provide financial incentives for energy efficiency.

Mr. Miller: Yes, that's my understanding.

Mr. Tabuns: How helpful will that be to the city, given the financial situation of the city?

Mr. Miller: I think what's important about the act is that it empowers the city to be creative in its public policy response on a whole range of issues, as the provincial government can do. We should think of the city that way, because we are larger by budget and by population than most provincial governments in Canada, except those of Ontario, Quebec, BC and Alberta. What the act does is allow us to respond creatively. Obviously, our ability to offer financial incentives just constrains our structural fiscal imbalance, but the act would give us the ability on issues like energy to be much more creative in the way we approach it. Given the partnership that the act creates with the province, we're able to work together and address issues in a way that addresses the provincial interest and the city interest. So I hope, for example, the co-operation we're able to see here will allow us to resolve issues where we aren't yet in agreement, like new power plants. That's really what is underlying this legislation: creating a partnership between the city and the province. I think it's the first time that has been expressed in legislation of this kind, recognizing that we have overlapping responsibilities and should work together. I think that's very positive.

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The Chair: Thank you, Mayor Miller. Mr. Duguid.

Mr. Duguid: I noticed in your comments, Mayor Miller, you mentioned that much has changed since 1834. I'd suggest that's true. Much has changed in the last two and half years as well, if you look at the relationship between the city of Toronto and the province. In fact, I'm not sure the people of Toronto yet recognize the significance of that change, if you just take a look at the past two and a half years: if you look at public health uploads, if you look at partnerships in policing to work with Toronto in dealing with some of the issues that have come out the last couple of years, if you look at land ambulance costs, if you look at the incredible change in public transit investment in this city.

I want to start off by thanking you for being here today and thanking you for the role you've played in changing that relationship, because it really has benefited, I think, each and every resident of Toronto, the fact

that the province and the city are now working together for the betterment of our city. I think this bill is certainly a shining example of what can come out of a relationship when both parties are working together.

There have been some concerns raised—you touched on it in your speech, and I'll give you a chance to comment quickly on it further—about licensing provisions and alternative sources of revenue by some who would suggest that the city may at some point in time abuse those powers. We have confidence in the city that they will not do that and we have confidence in the people of Toronto that they would ensure that their council will use these tools appropriately, but I'm wondering if you can bring further comfort today.

Mr. Miller: Yes. We have no current plans to invoke any of those powers. It is appropriate to give the city the general powers. It's an issue of principle: Do we respect Toronto's responsibilities and the magnitude of them by giving Toronto these kinds of general powers, which does make it different than any other municipality in this country? We house more people in our public housing than live in Prince Edward Island. That's why we need the broad powers, so that we can have proper public policy responses with all the tools available; otherwise, you can't have the proper public policy response. But it would be our intent, if there are any public policy changes, to go through the appropriate consultation process. In fact, what the bill does, through the delegation provisions, is empower us to allow council to deal with high-level issues and committees to deal with the implementation, which will allow us to do our public consultation in our traditional open manner but with even more rigour.

I think the bill creates the conditions where the people of Toronto, of course, are going to elect people to do their bidding and will be even more likely to do their bidding than in the past.

The Chair: Thank you, Mr. Hardeman?

Mr. Hardeman: Your Worship, thank you for the presentation. One of the issues that you mentioned was the appeal process as relates to the consent and minor variances that's in Bill 51 and that it would be more appropriate to have that expanded so you'd have more local appeal ability. I wonder if you could help me on that one as to what that would be. Would that be a form of municipal board structure that the city would set up, or in fact can we redesign the municipal board in such a way that it would be sufficient for all of them to be dealt with that way? Appeals are in appeals, and I'm a little concerned as to what difference it makes which level of government actually sets up the board to hear the appeal.

Mr. Miller: I have to make sure I'm giving the city of Toronto position, which is my job here today, and not my personal opinion. I'm happy to give you my personal opinion, Mr. Hardeman, but perhaps we could do that—

Mr. Hardeman: Oh, okay. That's just as good.

Mr. Miller: The city's position—there is a paper that's publicly available, and we can get it to your office if you wish—on planning issues is very well thought out.

I think the gist of it is that the city should be the planning authority, and the Ontario Municipal Board's role, at a maximum, should be as a true appellate body, not to hear cases de novo. We see a broadened role for a city of the nature of Toronto, given the size and complexity of our government, the population and the budget size and so forth, in dealing with planning matters in a more final way.

I think that's very important for a fundamental reason: When you have the OMB, it's all too easy for residents and developers just to say, "We're not going to compromise. We're just going to take our position." The planning process, at its best, should bring them together and find a way to ensure that development happens—and our official plan is very supportive of development—but happens in a way in which neighbours truly have a say. It's the city council position, as expressed in this paper, that at the moment that's not the case. I have to say, personally, I'm quite encouraged by the progress of the related reforms, but I don't think council has a final position on the related reforms yet. I think that's still before council.

The Chair: Thank you, Mayor Miller. We've exhausted our time with you. We appreciate you being here.

Mr. Miller: Thank you very much. Thank you for your attention, and I'm sorry to exhaust you.

The Chair: We appreciate you being here.

TORONTO REAL ESTATE BOARD

The Chair: Our next delegation is the Toronto Real Estate Board, Ms. Mason. Welcome. We're not going to start until we've got kind of a furor at the back quieted down. When you do begin, you will have 15 minutes. If you could identify yourself and anybody else who may be speaking this afternoon for Hansard, that would be helpful. Should you use all of the time, there won't be an opportunity for us to ask questions, but if you leave a little bit of time, there will be an opportunity for the parties to ask questions. Welcome.

Mrs. Dorothy Mason: Good afternoon. My name is Dorothy Mason. I am the president-elect of the Toronto Real Estate Board, or TREB for short. Joining me today are Von Palmer, TREB's director of government relations, on my right; Mauro Ritacca, TREB's manager of government relations, on my left; and Gerry Weir, chair of the Ontario Real Estate Association's government relations committee.

On behalf of TREB members, I would like to thank you for allowing us the opportunity to present our views on Bill 53. As some of you may know, TREB is an association of over 23,000 realtors working in the residential, commercial and industrial markets in the GTA. Every day, realtors help bring people, businesses and jobs to this region. Last year, TREB members facilitated more than 84,000 residential sales and 12 million square feet of industrial-commercial transactions.

TREB members understand that their success depends on the success of the city of Toronto and the GTA. That

is why TREB is working closely with governments at all levels to solve the challenges facing this region. We applaud the provincial government for the initiative that it has shown in this respect. Specifically, the provincial government's leadership to ensure the viability of public transit and infrastructure is extremely encouraging.

We also applaud the provincial government for recognizing that the city of Toronto plays a unique role in Ontario and the GTA. Ensuring the continued success of this province means ensuring the success of the economic engine, Toronto. To do this, a new deal between the city of Toronto and the province is needed. TREB believes that Bill 53 is the first step in this direction, which is why it is important that we get it right. Unfortunately, in its current form, Bill 53 could have unintended consequences that will in fact hurt Toronto's competitiveness instead of improving it.

TREB's key concern regards section 262, which gives the city of Toronto broad authority to levy taxes, subject to certain limitations. Although section 262 closes the door for various types of taxes, it leaves the door open for a local land transfer tax to be imposed on top of the provincial land transfer tax already charged to purchasers of property. TREB fully understands the city's need for flexibility in raising revenues. Every day, TREB members see the effects of high property taxes on real estate markets. It is simply unrealistic to expect property taxpayers to provide the level of investment needed to address the city's challenges. However, the answer is not a local land transfer tax, which would simply be another tax on property owners.

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A Toronto land transfer tax could create more problems than it would solve, not only for the city of Toronto but also for the GTA and the province. The direct impacts of a Toronto land transfer tax would be clear: Toronto housing would be less affordable, and attracting businesses to Toronto would be more difficult. The unfortunate results would be more urban sprawl and less economic growth.

If home buyers and businesses are forced to pay an extra tax to purchase a property in Toronto, the result will be obvious: They will choose to live or do business where they won't have to pay this tax: outside of Toronto. Make no mistake, the average homebuyer will perceive a Toronto land transfer tax as nothing more than a homebuying tax that they could avoid by choosing to live outside of Toronto. The average Toronto home seller would see this as a tax that does nothing but make their property more difficult to sell.

Similarly, for businesses looking to locate within the GTA, a new Toronto land transfer tax would make Toronto even less competitive. Toronto's high business property taxes already discourage businesses from locating here. A new Toronto land transfer tax will make this situation even worse.

By making it more difficult to live and work in Toronto, relative to the 905 region, the obvious result will be more urban sprawl, more traffic congestion and a

worse quality of life. This would be completely contrary to the objective of the provincial government's greater Golden Horseshoe growth plan, which specifically attempts to contain urban sprawl by intensifying growth in designated priority growth centres, many of which are located in Toronto. This raises one simple question: How can the province intensify population and employment growth in Toronto by allowing new taxes that will make it more expensive to live and work here?

A Toronto land transfer tax would also have a direct impact on the local and provincial economy. According to research conducted by Clayton Research for the Canadian Real Estate Association, the average resale housing transaction in Ontario generates over \$27,000 in spinoff economic activity for things like renovations or the purchase of furniture and appliances. This means that housing transactions facilitated by TREB members contributed close to \$1 billion to the Toronto economy last year alone. This represents a significant number of jobs that would be directly threatened by a Toronto land transfer tax.

More urban sprawl and less economic growth is a high price to pay for a new tax, so it is important to consider if its benefits will outweigh these costs. We believe the answer is no. By making Toronto real estate less affordable and therefore reducing associated economic activity, a Toronto land transfer tax would result in less property assessment growth for the city over the long term. This could very well mean that any new revenue from a Toronto land transfer tax would be offset by forgone revenue from less assessment growth.

A Toronto land transfer tax also raises questions of fairness. As I've already mentioned, a land transfer tax is already imposed by the provincial government. On the average Toronto home, the provincial land transfer tax is close to \$4,000, payable in full by the homebuyer when they purchase a property. This substantial cost is intended to pay for provincial services associated with property transactions. It is not clear what, if any, municipal services related to property transactions a local land transfer tax would be paying for.

As mentioned, TREB fully understands the challenges faced by the city, and we believe that Bill 53 is part of the solution, but it is not the whole solution. To truly address the city's challenges over the long term, structural issues must be addressed. First and foremost, the city must ensure that it is delivering services as efficiently as possible. Taxpayers expect this and they deserve no less. Secondly, and just as importantly, the provincial government must deliver on its commitments to ensure that provincial social services are funded provincially. According to the Association of Municipalities of Ontario, Ontario is the only province in Canada where municipal property taxes are used to subsidize provincial health and social service programs. We applaud the provincial government for its recent actions to address this issue and we look forward to additional progress.

Toronto is a world-class city and it deserves to be treated with respect. Bill 53 is a significant achievement

in this regard. It will give the city the new deal it needs with the provincial government, but it should go further: It should also give Torontonians a new deal with their city government, a deal that assures them of efficient, high-quality services, and not new taxes.

Thank you for giving us this opportunity. I hope you have found our views helpful, and our team would be happy to answer any questions should there be some.

The Chair: Thank you. You've left about two minutes.

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): Thank you very much for your well-structured presentation. I have a question. You referred to the land transfer tax. At the present time, before you conclude a transaction, you have to get down to the city and pay a tax certificate when you get the information from the city. Is there a fee applicable for a tax certificate?

Mrs. Mason: Sorry, what information do you refer to that you get from the city?

Mr. Lalonde: Before you conclude the transaction, you have to find out through the municipality if all the taxes have been paid. There's some research to do. Most of the time the municipality would charge you a fee. That's what they call a search and that's what they call a tax certificate.

Mrs. Mason: The title search and that type of thing?

Mr. Lalonde: That's right, yes. Is there a fee applicable at the present time?

Mrs. Mason: Yes, there is.

Mr. Lalonde: Chair, that is my question.

The Chair: Any further questions?

Mr. Duguid: I just want to thank you for being here today and for your presentation. I've had an opportunity over the last couple of years to spend a fair bit of time with your board and I really appreciate the input you've had on this and other pieces of legislation. I don't think I have any more time than that, so I thank you for being here. We'll continue to work with you.

Mr. Hardeman: Thank you very much for your presentation. As I was looking at section 262—I find it interesting to hear about the land transfer tax—it's quite extensive in what is allowed, but it's actually much more extensive as to what is not allowed to be taxed. When the bill was written, I'm sure they decided, "We wanted to make it broad and then we wanted to make sure we closed it to where we don't want them to go." Could you suggest or tell me why you believe that one was not included as a tax they're not allowed to charge? If you look at some of the other ones, it's areas where it's not a cost that they're covering. I think Mr. Lalonde mentioned the service that the city's providing—land transfer is not a municipal exercise, it's a provincial exercise, and if they put that on they would be taxing a provincial service. Why would they not exclude that in the bill, in your mind?

Mrs. Mason: I'm not sure if I have the answer, but we don't believe public policy should be structured by elimination. We believe there should be specific areas

that could be highlighted as to what would be approved, as taxes go, unless either—

Mr. Hardeman: But you would be satisfied now if we introduced an amendment and just added the land transfer tax to those exclusions of taxes?

Mrs. Mason: Yes, we would be very pleased with that.

Mr. Hardeman: It wouldn't change because we've heard the city say, and we've heard the minister say, that we have great faith the city will not charge taxes that will be detrimental to their future growth, as you suggested this might be. So it would be a reasonable amendment then to put that in so that we had land transfer tax excluded as a tax that was allowed to be charged?

Mrs. Mason: We believe that to be a very proper amendment to put in place.

Mr. Tabuns: Thank you very much for making the presentation. The first question I have: It's alluded to in here, but just to very clear, the Toronto Real Estate Board believes that the expenses that were downloaded onto the city of Toronto in the past should be reversed and reassumed by the province. Am I understanding you correctly?

1700

Mrs. Mason: Are you speaking about the provincial social services?

Mr. Tabuns: Yes.

Mrs. Mason: Yes, we do.

Mr. Tabuns: Good. Is anyone actually proposing a land transfer tax?

Mr. Von Palmer: The reason we've raised the issue—and that's a question we ask: Why is that not one of the exclusions in the bill? I believe that if you look at a speech Mayor Miller gave about a year ago—and it's posted on the city's website—he listed the land transfer tax as one option the city may look at. So when we read speeches such as those, it obviously raises concerns on our end. I think the gentleman appropriately raised the issue as to what we think about the land transfer tax not being excluded in this bill, and we ask the question, why is it not excluded? Obviously, if you open the door, you tempt fate and you allow the city to move in and impose a land transfer tax.

Mr. Tabuns: Did you want to ask a question?

Mr. Peter Kormos (Niagara Centre): You're doing oh so well.

The Chair: I don't think he has been properly subbed. Mr. Tabuns, you still have about a minute left if you wish to use it.

Mr. Kormos: But I could if I wanted to, right, Chair?

The Chair: I believe you can, yes.

Mr. Kormos: Go ahead, Mr. Tabuns.

Mr. Tabuns: In fact, most of my questions have been covered. Unless you had one that you wanted to bring forward, I'm fine for the moment.

The Chair: Thank you very much for being here. We appreciate your team appearing before us.

Mrs. Mason: Thank you for your time.

ONTARIO RESTAURANT HOTEL
AND MOTEL ASSOCIATION

The Chair: Our next delegation is the Ontario Restaurant Hotel and Motel Association, Mr. Mundell. Welcome. As you get yourself settled, if you need some water, please help yourself. You will have 15 minutes to speak. If you could identify yourself and the association that you speak for and anybody else who may be speaking today for the purposes of Hansard. After you've introduced yourself, you will have 15 minutes. Should you use all that time, there won't be an opportunity for questions, but if you leave time, there will be a chance for us to ask you about your deputation. We do have your handout before us.

Mr. Terry Mundell: Thank you very much, Madam Chair and members of the committee. Good afternoon. My name is Terry Mundell. With me today are my colleagues Syd Girling and Michelle Saunders. I'm the president and CEO of the Ontario Restaurant Hotel and Motel Association, the largest provincial hospitality industry association in Canada. I want to thank the committee for the opportunity to speak with you today, as Bill 53 is a significant bill for the hospitality industry. Our membership and our industry is comprised of both the accommodation sector and the food service sector, all of whom are impacted by this bill.

Over the past number of years, the hospitality industry has suffered from the effects of 9/11, SARS and the NHL lockout, to name but a few. All of these factors, from which the industry has not yet fully recovered, have been completely out of the control of the government and the industry. That's why it is so important that Bill 53 be used as a tool to help support a business community in Toronto that's dynamic, competitive and sustainable.

To that end, the ORHMA recognizes and supports that Bill 53 expressly prohibits the city from levying a hotel room tax. This ensures that funds generated through the voluntary, industry-led destination marketing fee will remain dedicated funds, to be used solely for destination marketing, a positive step for the industry.

However, the ORHMA does have a number of concerns with the different components of the proposed legislation, as outlined in our letter to the Premier. Our main focus is the proposal to grant the city of Toronto the authority to levy a direct retail sales tax on the purchase of liquor or, more simply, to add a fourth tax line to the customer's bill. This measure threatens the sustainability of the hospitality industry's licensee community. The ORHMA recommends that this committee amend the bill and remove this clause during clause-by-clause consideration.

When Bill 53 was introduced, the Premier stated that "Toronto would now have the ability to be as dynamic, as competitive and as successful as the people who have chosen to build their lives here." But the liquor tax provision of the bill contradicts the government's stated intentions. It will reduce sales, lower operating margins and jeopardize thousands of jobs in Toronto's licensee community.

Why does Bill 53 specifically target the licensee community, which is 63% independently owned and operated, with a direct tax? No other industry comprised of such a high proportion of small and independent businesses is targeted. Other proposed municipal powers such as user fees and licensing bylaws are applied across the board; everyone pays. But this provision of the bill targets the licensee community, a community which presently today is struggling to make ends meet.

Our industry, of which 17,000 of the 22,000 establishments have liquor licences, with 8,000 food service establishments in the city of Toronto alone, of which 4,100 are licensed, represents a quarter of all licensees and a third of the beverage alcohol market in Ontario. Provincial statistics therefore are reflective of the realities of the licensee community in Toronto. I want to give you a sense of what that reality is.

Statistics Canada data, not adjusted for inflation, shows Ontario's food service sector sales growth between 1998 and 2005 at only 3.5%, lagging behind the national average of 4.3%. This is more notable when Ontario's sales growth is compared with the rest of Canada, whose growth was 4.9%, which is figure 2 in your charts. Ontario's sales, which flatlined for four years, actually bring down the national average.

The two specific segments of our industry that will be impacted by an additional tax on liquor are full-service restaurants and the bar, tavern and nightclub sector. Figure 3 in the chart shows that for full-service restaurants, which generate 18.2% of their revenue from the sale of beverage alcohol, overall sales, at 3.5%, trail the rest of Canada, which is 4.6%.

Between 1998 and 2005, bars, taverns and nightclubs in Ontario saw virtually no sales growth. If you look at figure 4, annual sales growth for this sector is only 0.2%. The 2005 sales figures for this sector are below even 1999 sales figures. This segment of the industry, as you will see from figure 5, receives over 72% of its operating revenue from the sale of beverage alcohol. Adding a fourth tax line will simply destroy this segment of the industry.

Now let's talk about profitability. Again, as you'll note from figure 6, Ontario's total food service industry operating margins in 2004 were the lowest in the country, at 2.8%. Full service restaurants' operating margins are 1.9%, and bars, taverns and nightclubs had the lowest operating margins of any other industry segment in the country, at 0.9%. These numbers indicate that in the present form, with profits averaging between 1.9% and 0.9%, the industry, quite frankly, is not sustainable in Ontario and Toronto in its present shape.

Figures 10 and 11 indicate the impact a municipal sales tax on liquor may have on the profit margins of full-service restaurants and the bar, tavern and nightclub sectors. Not only will profits decline, but profits will become losses. Losses become closures, bankruptcies, and job and investment losses as well.

This is about the long-term sustainability of an industry that's holding on by a thread. Licensee pur-

chases used to represent 16% of all sales at the LCBO and in a short period of time have dropped to about 10.6%. The industry also faces altered tourism patterns as a result of the western hemisphere travel initiative. What is needed now is leadership, not a tax that will threaten the sustainability of the licensee community in Toronto, and in Ontario for that matter.

The revenue that will be generated by a municipal retail sales tax won't come close to solving the city's financial situation. The city's 2006 revenues are more than \$7.6 billion. It's estimated that a municipal liquor tax of 1% will generate approximately \$4.3 million, and 8% will provide the city with an additional \$34.8 million. This doesn't begin to address their concerns or their economic outlook, but it will close doors and eliminate jobs. The city's books cannot be balanced on the back of one industry, particularly this industry, this small business sector, which is 63% independently owned and operated. These operators in the city of Toronto already pay over \$200 million in fees, levies, mark-ups and provincial sales tax remitted on the resale of beverage alcohol, on top of property tax, business licensing fees and other user fees. Future new investment in this sector will be questionable at best.

This provision of the bill also raises issues of public safety, booze zones, drinking and driving, illegal liquor, smuggling, booze cans and the enforcement of the illegal element. LCBO's own statistics show that from 2003-04 to 2004-05, untaxed illegal liquor increased by 18% when mark-ups were increased by the provincial government. These will become an issue not just within Toronto but throughout the province.

This isn't about the city of Toronto or about any other municipality; this is about the sustainability of a small business sector. The fact of the matter is that municipalities in Ontario receive their authority from the provincial government. Bill 53, a provincial bill, is before you today for consideration, and now is the time to make an amendment. The city doesn't have a vote on this provision; you do. We are asking members of this committee and members of the government to do the right thing: to stand up and support the independent owners and operators who have dedicated their lives and have all their investments tied to this industry, who have everything to lose, nothing to gain, and who are looking for your leadership.

Once again, the ORHMA is asking this committee that during clause-by-clause consideration of Bill 53, section 262(2)5.ii, the provision to permit the city to levy a direct retail sales tax on liquor, be revoked.

Thank you for your time.

1710

The Chair: You've left about two minutes for each party to ask questions, beginning with Mr. Hardeman.

Mr. Hardeman: Thank you very much for your presentation on behalf of all your membership.

First of all, I want to say that we had previous presentations dealing with the land transfer tax. The mayor of the city of Toronto presented. Everyone seems to agree,

or at least the minister and the mayor agree—and this was more about the licensing side—that if they have the ability to tax but it will be negative to the industry or to their community of the city of Toronto, the city would not impose the taxes, even though they have the right to do that. In your opinion, would that hold true here? If this presentation was made to city council in Toronto, even though they have the ability to do the sin taxes, which we all know is the first place people go for taxes, does your industry have confidence that the mayor will come through and say, “Well, no, this will be negative to that part of our industry; we will not find the extra revenue there”?

Mr. Mundell: I think, to be abundantly clear, he's one mayor and one city councillor. Councils change. They revolve every three years—or four years, depending on amendments that may come forward.

This is an issue about industry sustainability. If the mayor and members of council believe they don't need this power, then don't give it to them. You have the decision-making authority now. The accountability lies here at Queen's Park for this piece of legislation. Stand up for those small, independent operators in our industry who are struggling now at 0.9% and 1.9% profit margins. We're not sustainable now. We can't take the chance.

Mr. Hardeman: I would just go on. Obviously, on behalf of your members, you've studied this bill quite carefully. Looking at that section of the bill that deals with the tax on alcohol, cigarettes and entertainment, if you took that section out, if you took those items out, there would no longer be a need for that whole section. The government has said they're going to give extra taxation powers to the city, but when you read that whole section, it's all exclusions except those four. So we realize that it's not an amendment to exclude four more; in fact, the suggestion is that we should not have the city taxing in areas where the province already taxes.

Mr. Mundell: That's the general consensus from us: The city should not be taxing where the province already does. Again, we have an industry where sales aren't back to 1999 figures. I don't think any industry is happy with that.

Mr. Hardeman: The other thing—

The Chair: Thank you, Mr. Hardeman. You've exhausted your time. Mr. Tabuns.

Mr. Tabuns: Thank you for the presentation. There is always going to be a question of how the city is going to balance its books. That's part of the reason there are those tax provisions in the law. Does your organization support a reversal of the downloading of social service expenses on to the city and a return of those costs to the province?

Mr. Mundell: I think there's a real question about what is on the property tax base now. I don't think there's any doubt about that. What the reversal is and what the correct mix is we don't have an opinion on, but clearly there need to be some changes on what's paid for out of the property tax in Ontario, not only Toronto.

Mr. Tabuns: Do you have comments on any other part of this bill?

Mr. Mundell: We've sent a letter to the Premier. There are a variety of other comments that we have around the bill, but clearly for us this is the major issue. This will drive our business down. Again, what other industry hasn't seen their sales increase since 1999? That's huge: 4,100 businesses in the city of Toronto who are licensees have a significant impact here, and they have a significant stake. Again, these are small, independent business owners. These are mom-and-pop shops. These are people who have everything invested and will lose everything in an industry which just has not recovered, and we cannot chance another tax.

Mr. Tabuns: I understand that this is your primary concern. You note you've written to the Premier. Can you give us sort of the headlines of the other concerns you have about this legislation?

Mr. Mundell: I think there's a variety of other concerns. The accountability issue is clearly one, how the city of Toronto becomes accountable for their dollars and the tax increases. The mayor's office and the structure in and around council and how it's structured is always an issue for us. That's something that needs some change and some review. You have a copy of the letter to the Premier that is there in our document for your reference.

Mr. Duguid: Mr. Mundell, thank you and your colleagues for being here today. You talked a fair bit about sustainability in your industry, and I think we're all sensitive to that. Your industry has taken a number of hits over the last decade or so. I would hope it's beginning to recover from some of those hits now, and hopefully we'll see some signs of that soon. But the city also has to be sustainable, and like your industry it competes with other cities and locations around the world for things like tourism. The city of Toronto has to compete with other cities its size around the world. I would hope that you recognize as well, notwithstanding the concerns you've expressed today, that it's very important that the city of Toronto have the tools it needs to compete with other cities its size around the world and that this act in fact gives it many of those opportunities.

Mr. Mundell: In a recent great cities of the world survey, one of the components that was brought out was restaurants and how they're a social fabric and a great part of the community and how they're the boardrooms of small business. We are a big piece of that sustainable city. We're a meeting place. We're a gathering place. That's where communities go. That's where families go. We're a big part of that social fabric.

The amount of money we're looking at here is less than 0.5 of 1% of the revenue source of the city of Toronto. For a group that's running on margins of 0.9 and 1.9, not back to 1999 sales figures, we need a sustainable industry to grow a sustainable Toronto, to invest, to expand our businesses, to expand the property tax base, to expand those other revenues the city has. We can contribute in other ways, and we do and we will. Give us the chance.

The Chair: Thank you very much for being here today. We appreciate your deputation.

GREATER TORONTO HOME BUILDERS' ASSOCIATION

The Chair: Our next group before us is the Greater Toronto Home Builders' Association. Welcome, and as you get yourself settled, perhaps you could identify yourself, the organization you speak for, and anybody else who may speak today, for Hansard. Once you begin speaking, you'll have 15 minutes, and should you leave time at the end, we'll be able to ask you questions.

Mr. Bob Finnigan: Good afternoon, Madam Chair and members of the committee. My name is Bob Finnigan, and I'm the first vice-president of the Greater Toronto Home Builders' Association and senior vice-president of Heathwood Homes, which builds single-family homes and condominium townhomes in Toronto and throughout the GTA.

I'd also like to introduce my colleague Michael Moldenhauer, who's government relations chair of the GTHBA and president of Moldenhauer Developments, an infill builder in Oakville, Mississauga and Toronto. Michael will present the second half of the comments today.

We are both volunteer leaders in the association and appreciate the opportunity to speak with you today regarding the City of Toronto Act.

By way of background, the GTHBA has been the voice of the residential construction industry in the GTA since 1921, and we have more than 1,400 member companies. Based on our 2004 activity, GTHBA members represent 231,000 jobs and more than \$17 billion in GTA economic activity. Provincially, our industry represents 460,000 jobs, \$34 billion or 5.6% of Ontario's GDP.

The Greater Toronto Home Builders' Association joined with the Ontario Home Builders' Association and the Urban Development Institute of Ontario and submitted our Bill 53 recommendations to the Minister of Municipal Affairs and Housing, a copy of which you should have received. Our joint recommendations recognize the mutual and vital goal of ensuring Toronto remains a strong and vibrant world-class city to effectively compete in the global economy.

Bill 53, if enacted, will fundamentally change the dynamics of how we do business in the city of Toronto and could negatively impact housing affordability. We recognize the empowerment thrust of the legislation. However, we're of the opinion that not all the impacts to the economy and the residential construction business have been considered. There could be unintended negative consequences that the act, in its future regulations, may cause. We are here today to paint an overall picture of the economic impact of escalating costs and to address three specific items: the broad permissive authority, land transfer tax, and design provisions.

Specifically, we will highlight how these three items and others could add to the cost of projects, could cause delays in getting an affordable product to market and could decrease housing affordability. The result: a nega-

tive economic impact that will cost the city of Toronto and the GTA jobs.

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Last fall, we commissioned a study by economist Will Dunning called *Jobs in Jeopardy*. You should all have a copy. This illustrates the effect of increased land costs, development charges, and government policy and regulation. The study showed that with only a \$1,000 increase in the cost of a home, we lose 284 housing starts, 1,015 jobs, \$20 million in government revenue and \$2.2 million in future realty taxes.

We could already be feeling these effects. Just last month, new-home sales decreased by 25% compared to March 2005. The average asking price continues on its upward trend and land costs have increased 66% since 2002. There are limits to what people can afford.

Regarding the broad authority and permissive nature of the legislation, we are concerned on a number of fronts, especially because, as we understand it, this bill will likely be the basis for a new Municipal Act that will be rolled out to all larger municipalities in Ontario, giving them the same broad powers and authority. An argument could be made that the city of Toronto will take the broadest interpretation possible of the bill and its subsequent regulations.

To help illustrate this, we have an example. Within the GTA, there is a municipality that has asked builders to sign voluntary development levies without having the legal authority to do so. We are forced to sign if we want our application processed. This is just one example, and there are many examples of municipalities taking authority beyond the intent of the legislation, and we are concerned about the province's will and desire to curtail it.

How can the province anticipate and deal with issues when it is not aware of what is really happening at the municipal level? We urge you to understand the impact of provincial legislation and growth plans and do what is necessary to protect what is of provincial interest.

Again, our concern is the net result of such broad authority and the inevitable additional costs that will impact housing affordability.

In addition, we are concerned about the open-endedness of section 8. The powers are so broad that the city could possibly enact its own version of the Ontario building code. Obviously, we are of the opinion that the city should not be allowed to pass bylaws that would supersede and potentially conflict with the code. We submit that matters of provincial interest, as regulated through provincial legislation and associated regulations, should remain firmly in the control of the province.

If the city were to pursue a process in which the city would duplicate and/or frustrate provincial legislation, the land development and residential building industry would expect the province to invoke section 25 of the City of Toronto Act. Furthermore, we expect the province will implement a process to closely monitor the actions and bylaws of the city.

Mr. Michael Moldenhauer: Good afternoon. Regarding the possibility of a municipal land transfer tax,

I have been requested by our members to strongly urge the government to add municipal land transfer tax to the list of taxes that are prohibited to be charged by the city.

We are making this request for a number of reasons. The land development and homebuilding industry has seen unprecedented change with respect to provincial and municipal legislation, regulation and policy in the last few years. As a result, we have witnessed increased and increasing municipal planning fees, land costs, development charges, and other various charges and requirements that have contributed to higher home prices and reduced affordability for new home buyers.

Toronto has doubled its development charges, increased parkland dedication requirements, and increased development application review and approval fees by over 130%. The impacts of both Bill 51 and Bill 53 have the ability of increasing costs by up to \$50,000 per unit. If one applies this to Will Dunning's report that Bob referred to earlier, this could result in our looking at losing over 14,000 new home starts per year and over 50,000 jobs per year in the province, lost revenues to all three levels of government of over \$1 billion per annum, and specifically the loss of \$100 million in realty taxes each year.

The Ministry of Finance, for a number of years, has recognized the benefit of providing incentives for new home buyers and this has been applied technically through the land transfer tax rebate. This is demonstrated most recently in the bulletin in July 2005. We would suggest that our concern is that the ability to impact such land transfer tax would completely undermine that type of an environment.

The Greater Toronto Home Builders' Association, the Ontario Home Builders' Association and the Urban Development Institute support good urban design but cannot support architectural control. Through the powers granted in section 114 of the act, the city would be able to exert control over the exterior elements of buildings. Architectural appearance and exterior design are subjective matters that should not be legislated. We submit that that legislation is a blunt and, in this case, inappropriate tool to address complex urban design issues. The design provisions will change how we do business, cause undue delay and add another layer of process. We are here to tell you today that this will result in significant costs and the loss of jobs.

We submit that Toronto has sufficient authority over urban design matters through the existing site plan review and approvals process in the Planning Act. For example, it has become a common practice for developers to voluntarily host design charettes that engage the city and the local ratepayer/community groups in the site planning and urban design process before approvals are granted. We suggest that allowing approval authorities to dictate the type and colour of materials and sustainable design will, amongst other things, likely add considerable costs and threaten the economic feasibility of individual projects.

We want to remove the risk of design conditions being requested by the municipality too far into the process.

Design features could become a matter of taste, so a project could be rejected or delayed for purely subjective reasons. We recommend that the design sections be deleted from this bill.

The industry could, however, support a voluntary urban design review process in the city of Toronto, provided it is undertaken by an advisory panel composed of objective design professionals as well as building industry representation. We recommend that the projects that are especially innovative or provide even greater community benefit should be further rewarded through height and density bonus incentives to encourage high-quality design and materials.

In closing, we ask you to consider all 13 recommendations in our joint submission as you consider amendments to this bill. We strongly suggest that the government assess the economic impact of provincial legislation and do what is necessary to protect the provincial interest. The residential construction industry generates jobs and tax dollars for all three levels of government and, most importantly, builds the communities we call home. We want to continue to be an economic driver of Ontario's economy and offer Ontarians an affordable housing product while being a job creator.

Lastly, it is important for us to recognize that both Minister Caplan and Minister Gerretsen have worked extremely closely with our industry. We were quite appreciative of their ability to engage us in the dialogue of both of these bills that we have before us.

The Chair: You've left about a minute and a half, beginning with Mr. Tabuns.

Mr. Tabuns: Thank you for your presentation today. Could you speak to this question: You say that section 114, giving the city of Toronto the authority to set design or to approve design, will drive up costs. Can you tell me what that's based on?

Mr. Moldenhauer: It would be based on two factors. As practically and as quickly as I can, given the time constraints, if you could imagine that a project went to the Ontario Municipal Board for approval and the ruling from the Ontario Municipal Board resulted in an approval that was contrary to what the city had wanted, this particular mechanism in effect would give the city another opportunity to impose onerous conditions that could prevent that project from actually going forward. Clearly, with a broad slate as far as being able to regulate the types of materials that one could use, if it was not used in good faith, then that could have a serious impact.

Mr. Tabuns: The other question then is, do you know why the city has asked for this authority? I assume it's in there at the behest of the city; I don't think the legislation came about randomly.

Ms. Lara Coombs: It's actually in Bill 51 and Bill 53. I think the city was looking for some more ways to control what builders build, and they see this as a way to do it.

The Chair: Thank you. Are you Ms. Coombs?

Ms. Coombs: I am.

The Chair: Thank you—just for the purposes of Hansard.

Mr. Duguid: On page 5 of your presentation, you talk about the open-endedness of provisions in section 8 and the concern that the city could enact its own version of the building code. I'd like to get from you why you think that's the case. My understanding is that there is in fact an exception with regard to green roofs, that the city would have the ability to encourage the use of green roofs. Aside from that, as far as I can recall, there is no provision that allows the city to invoke its own building code. The provincial building code would remain supreme, and the city would not be able to change that. Correct me if I'm somehow misreading it.

1730

Mr. Finnigan: The indication we have on that is that there has been talk from the city. When asked specifically about building code provisions, they've said, "No, we're not giving up that right."

Ms. Coombs: Just to add, our legal opinion actually indicated that there is some wiggle room for the city to encroach on what would be considered provincial matters of interest, like provincial legislation. We wanted to bring it to your attention—we want to be overly cautious—that what is a provincial matter should stay a provincial matter.

Mr. Duguid: It would be very appreciated if you could share your legal opinion with us. You probably already have, but if you haven't already, share it with us just so we can have a look at it and make sure that the intent of the legislation is accomplished within the legislation.

Ms. Coombs: I'm happy to do that

Mr. Duguid: Do I have any more time?

The Chair: You have 30 seconds.

Mr. Duguid: Just quickly, my recollection of the provision with regard to architectural control is that it's not on a one-off basis where council gets to say, "We want pink windows," or something like that. It's through their official plan that they would put in architectural standards that might designate certain areas. I'm going to have to go back and reread that section after what you've said here today. But is that correct, that they do have control but the standards have to be set up front? Is that your understanding as well?

Mr. Moldenhauer: My understanding is it's not district-wide. It's not like a policy that they're looking to use, in effect, for a neighbourhood urban design mechanism. Clearly, it could be utilized within the context of one project at a time.

Mr. Duguid: We'll have to get that clarified for you.

The Chair: Mr. Hardeman?

Mr. Hardeman: Thank you for that last comment. We'll need to get that clarified, because my understanding was that in fact it is individual-application applicable. There's nothing in there that would suggest that it's restricted to the official plan document. So I think that needs to be clarified.

I really have a question—we've heard a lot of discussions about the land transfer tax, that that's going to cause a great problem and increase the price of housing.

But I haven't heard, and we didn't have the opportunity to get it from the minister, and maybe we could, Madam Chair, with your indulgence, ask the parliamentary assistant if he could comment on why the land transfer tax is not included in the list of what can't be done. It would seem to me that it's a provincial tax and it wouldn't even be applicable. But why is it not mentioned when there's so much concern about it?

The Chair: Are there no questions for this delegation?

Mr. Hardeman: No. It's actually to the parliamentary assistant.

The Chair: But are there no questions? I'll let this delegation go if your question is only to the parliamentary assistant.

Mr. Hardeman: Actually, the question is so the delegation can hear it, because one of their number one concerns is why that hasn't been excluded, and I would like to hear it from the—or maybe the government feels that it doesn't need to be excluded because they can't do it.

Mr. Duguid: I think the key to the consideration of revenue tools for the city of Toronto was to start off with a permissive approach. That was really the theme behind what we were trying to do. In doing that, there are certain areas that we felt that we wanted to ensure they were not, at this time at least, going to utilize. That would be income tax, sales tax—with the exception of tobacco, alcohol and entertainment—and I believe gas tax, and there was capital tax. There were a few things that we'd included that we exempted.

We wanted to leave it as open as possible so that the city of Toronto would have the same tools or similar tools that other cities its size internationally have. That doesn't mean they're going to utilize each and every one of these tools. We've heard no indication from the city that they're interested in the land transfer tax. Maybe they are; maybe they're not. We haven't had any indication that that's the case. But we want to leave it as permissive as possible so the city, in their due consideration and in full consultation with their community, can decide what's appropriate for the city of Toronto. We think they're in the best position to make those judgments.

The Chair: Thank you very much for being here today. We appreciate your coming out.

CHRIS SELLORS

The Chair: Our next delegation is Michael Walker, councillor of ward 22. I understand he's not here today, but his executive assistant is here with a presentation. Welcome. Can I get your name for the purposes of Hansard?

Mr. Chris Sellors: Chris Sellors, executive assistant to Councillor Michael Walker.

The Chair: I understand you have a DVD and a presentation. Is that right?

Mr. Sellors: Yes. I was told that I'm to give AV the signal. It's just going to be, if you see my written submission, just into the text.

The Chair: Okay. You understand that you have 15 minutes, and following your presentation, should there be time left over, we'll be able to ask you questions.

Mr. Sellors: Great. Thank you.

My name is Chris Sellors, and I am the executive assistant to Toronto city councillor Michael Walker, St. Paul's, which is in the centre of the city and incorporates part of midtown and north Toronto. I am here on the councillor's behalf as he is unable to appear before you today due to illness.

I would like to thank all the members for the opportunity to address this committee regarding this most important piece of legislation, the new City of Toronto Act. I will focus most of my comments upon the sections of the legislation concerning the governance of the city, how the regulations would radically change the way city council operates and how city council as a whole represents the wishes of the citizens of Toronto.

I would like to start with a video of former mayor David Crombie making a deputation to the mayor's policy and finance committee last November on the governance changes to city council as proposed in Bill 53, particularly the regulations in section 151. As you will gain from his deputation, this former mayor, one of the city's best, strongly recommends against the "strong mayor" model and the executive committee as proposed. Former mayor Crombie's comments echo Councillor Walker's sentiments as well as my own.

You can start the video now.

Video presentation.

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Mr. Sellors: Thank you. To continue, on April 4 David Crombie addressed the city again on this issue by appearing before community council. His comments were the same, imploring us not to employ this model. Former mayor John Sewell and many others have appeared before the city on this issue. Consistently, the public agrees that changes are needed to improve the efficiency of city council but not in this way. In the words of University of Western Ontario political science professor Andrew Sancton:

"This proposed version of the 'strong mayor' will not work—it is a mishmash of the administrations of some large American cities (such as New York or Chicago)—but it won't work. In order to work, the executive branch and the council branch need to be in separated spheres of control, otherwise the system does not have the proper checks and balances to provide transparency and accountability to the governed. The role of councillor would be diminished and power would be centralized in the mayor's office, thereby reducing the opportunity for local citizen input through their local councillor in the name of the city-wide plan of the mayor."

Professor Sancton was part of a ward-wide meeting Councillor Walker had with residents to discuss this proposal; 150 residents were in attendance, with all but one speaker against the "strong mayor" proposal.

In St. Paul's, the area Councillor Walker represents, the municipal election vote result for the current mayor

was barely 2% more than the runner-up, which does not give a clear mandate of support for the platform of the current mayor, whereas the municipal election vote result for Councillor Walker was 83% in favour of his re-election. Under this governance model, in section 151, the people of St. Paul's would see a reduced role for their representative at city hall, for whom they voted with such majority and trust. This is counterintuitive to the thinking of many residents of St. Paul's, who are some of the best-educated electors in the country.

Democracy is expensive. Democracy is hard to control, is unpredictable and messy. Well, if we want to ultimately streamline decision-making and run our city without the appropriate input from our residents, then we should choose the big vision over the local perspective. Then we would be choosing the "strong mayor" model. This model's ways of empowering the mayor and disempowering council are insulting to the citizens of Toronto, who have been crying out in the last 10 years—especially the last 10 years—for an increased level of meaningful public consultation on all issues, big and small. This governance model is not what our residents asked for, and there has not been enough consultation to tell what our residents want.

All through Bill 53 there are instances where the minister can usurp the power of the city and impose measures not requested by the city. In this way, Bill 53 is only a smoke-and-mirrors fulfillment of the basic touchstones of autonomy for a would-be mature level of government. The autonomy of the city of Toronto is at stake here. When the discussion around the City of Toronto Act began in 2003, the city consistently voiced its need to rule its own house by making its own decisions, with the ability to collect and spend revenue as it needs to. Bill 53 seems to do this, but it does not.

I should say, there are parts of this proposed legislation that, with refinement, will be improvements to city council's control over its own. Some of the positive elements in this legislation are:

(1) The power to create our own binding lobbyist registry, section 164. Thank you. We've been waiting. The city passed a draft bylaw for its own lobbyist registry in 2003 after a motion by Councillor Walker in January of 2002. It was actually seconded by the mayor, then a councillor at that time. Thank you for finally giving the city the power to observe lobbyist activity with the same scrutiny as the provincial and federal governments.

(2) The power to create corporations under the management of the city of Toronto. This will be useful for the sustainability of our cultural attractions, like Casa Loma, for example, which need the power to raise funds on an ongoing and sustainable basis.

(3) Land use planning, section 111, the power to prohibit and regulate the demolition and conversion of rental housing units. This has been requested for years because we are quickly losing our stock of affordable rental housing in Toronto. Thank you for that one, too.

(4) Land use planning, section 114, subsection (6), paragraph 3—site plan control. Increased power over the

site plan of a proposed development is needed, although, in paragraph 3, the act excludes the city from controlling "the manner of construction and construction standards." The city should have the power to control the manner of construction in order to protect the quality of life of its citizens. For example, if the city had this power when the Minto development—you've all heard of that—at Yonge and Eglinton started, it may have been possible to stop the strong vibrations caused by excavation that negatively affected businesses and residents, damaged property and caused great discomfort to our residents.

(5) Land use planning, section 115—appeals of minor variance applications will now be heard by an appointed citizen-member panel, arm's length from city council. This is in the right direction. This will increase the city's control, but the legislation makes no mention of the funding for this new body. Effectively, this cost will be downloaded to the city. Another problem with this scheme is the fact that minor variances are heard by an appointed citizen-member panel in the first place, currently. How would another citizen-member appeal body have the authority to overturn the first decision made by a citizen-member body? City council or community council should be the body that hears appeals of minor variance applications. With some refinement, these aspects of the legislation will aid the city.

To return to my main points, the "strong mayor" proposal contained in Bill 53 is wrong for Toronto, and the power of the minister to impose this system on the city should be removed. The city should be given the power to choose its governance model and not forced into something it did not ask for. A strong city is a supremely democratic city, and parts of this bill will reduce the level of democracy.

Thank you for your attention.

The Chair: You've left nine seconds. Thank you very much for being here today.

1750

ONTARIO HOME BUILDERS' ASSOCIATION

The Chair: Our next delegation is the Ontario Home Builders' Association. Welcome. If you're both going to speak, identify yourselves and the organization you speak for before you begin. When you do begin, you will have 15 minutes. If you leave some time, we'll be able to ask you some questions. I believe we have your presentation here.

Mr. Victor Fiume: Thank you. Madam Chair, members of the committee, good afternoon; actually, it's close to good evening. My name is Victor Fiume, and I have with me Michael Collins-Williams, from the Ontario Home Builders' Association. I am the president of that association. I've also served as president of the Durham Region Home Builders' Association, and I'm an observer member on the board of directors at the Tarion Warranty Corp. I've been involved in the residential construction industry for two decades, and I'm the general manager of

the Durham Group. I am a volunteer member in this association, and I appreciate the opportunity to speak with you here today and to deliver an important message from the residential construction industry.

The Ontario Home Builders' Association is the voice of the residential construction industry in the province. Our association includes 4,000 member companies organized into 31 local associations across the province that are involved in all aspects of the industry. Our industry represents over 5% of the provincial GDP and contributed approximately \$34 billion to the provincial economy last year.

OHBA would appreciate your consideration with respect to a number of concerns with the proposed Stronger City of Toronto for a Stronger Ontario Act. OHBA does not believe that the government has given serious consideration to potential economic and business consequences that may arise from Bill 53.

The Ontario Home Builders' Association has joined with the Greater Toronto Home Builders' Association and the Urban Development Institute to present key recommendations to the provincial government on this piece of legislation. About half an hour ago you heard a number of recommendations from my colleagues Michael Moldenhauer and Bob Finnigan, representing the Greater Toronto Home Builders' Association. I'm going to pick up where they left off and speak to a couple of issues that may have unintended negative consequences for the residential construction industry. Our joint recommendations are offered to you with the understanding that the province, the city of Toronto and our industry share the same goal: enabling Toronto to remain a strong and vibrant world-class city able to effectively compete in the global economy.

Our first recommendation is that home builders be exempted from business licensing in Toronto because we are already licensed through the Tarion Warranty Corp. To frame this recommendation, I will provide you with a brief background on the Tarion Warranty Corp. and their involvement with the licensing and regulation of the home building industry in Ontario.

In 1976, the Ontario Ministry of Consumer and Commercial Relations established the Housing and Urban Development Association of Canada warranty program—commonly referred to as HUDAC—subsequently renamed the Ontario New Home Warranty Program, and in 2004 re-branded as the Tarion Warranty Corp. Tarion is the licensing and regulatory body mandated to administer the residential construction industry in Ontario. Tarion guarantees the statutory warranty rights of new homebuyers and regulates new home builders under the Ontario New Home Warranties Plan Act. As the regulator of Ontario's new home building industry, Tarion registers new home builders and vendors, enrolls new homes for warranty coverage, investigates illegal building practices, resolves many warranty disputes between builders and homeowners, and establishes customer service standards and construction performance guidelines for the industry.

Tarion is not dependent on government funding as it is financed entirely by builder registration renewals and home enrolment fees. Tarion is an unparalleled success, as confirmed by the 1.3 million homes enrolled in the program to date. By law, every builder working in Ontario must register and enrol all the new homes they build. In situations where a builder does not meet the established standards, Tarion has the authority to both step in and resolve the issue and to deregister or take legal action against the offending company. Tarion is in the best position to provide the necessary protection to both consumers and builders, and to set the standards by which the homebuilding industry must abide. Furthermore, it is our submission that as Tarion is successfully discharging its mandated functions, further duplication of licensing for home builders by the city is redundant and unwarranted.

As the Tarion Warranty Corp. currently governs and licenses new homebuilders in the province, we recommend that the Minister of Municipal Affairs and Housing pass a regulation under section 119(1)(a) to exempt homebuilders from being subject to business licensing by the city of Toronto.

The second issue I would like to briefly discuss is zoning with conditions. The province's intention for Bill 51 is to enable municipalities to address specific physical aspects of community building. Since Toronto's authority to apply conditions on zoning resides in Bill 53, it is unclear whether the intention is the same with respect to Toronto versus what is contemplated for other municipalities in Bill 51. This ambiguity leaves us very concerned that Toronto anticipates requiring social infrastructure through the development approvals process.

We are opposed to the use of conditions on zoning for these purposes, particularly in light of the significant number of eligible items the industry pays for under the Development Charges Act. We submit that legislation governing the planning process is an inappropriate vehicle for Toronto to pursue social policy objectives. New home buyers should not bear the responsibility of funding redistributive social programs. These costs should be borne by all taxpayers.

GTHBA, OHBA and UDI submit that imposing conditions through zoning has the potential to make projects economically unfeasible, particularly if the city views this as a solution for a myriad of problems, whether fiscal or social in nature. The industry would, however, consider supporting the city being given the authority to impose conditions on zoning to obtain specified community benefits, in exchange for the provision of specific bonuses to the applicant, such as increased height or density, credits on parkland dedications, cash in lieu of parkland conveyance, or development charges.

Therefore, we recommend that the province amend section 113(2) of the bill to enable the city to impose conditions on zoning to obtain specified community benefits, in exchange for bonuses or credits to the builder or developer. We also recommend that section 113(2) of the bill not be proclaimed until such time as the draft

regulation is released and the public and stakeholders are afforded a reasonable opportunity to review and provide input.

The third and final item I would like to briefly discuss today is section 108 of Bill 53, governing the construction of green roofs. The industry is supportive of energy efficiency and conservation; however, the industry will want to ensure certainty and consistency in standards across all Ontario jurisdictions. New building and construction standards fall under the provisions of the Building Code Act. We are concerned that municipal bylaws mandating new construction standards could be in conflict with the provincial interest. Furthermore, we are concerned that there is a potential for a number of varying construction standards across different jurisdictions in Ontario. We urge the province to maintain uniform building and construction standards.

Presently there exists a well-established, fair and balanced process, facilitated by the Ministry of Municipal Affairs and Housing, through which the stakeholders regularly review and provide input respecting building code revisions. New building and construction standards such as green roofs should be addressed through this same process. Additional building and construction standards or policies mandated by municipalities would circumvent the established provincial process.

The Ministry of Municipal Affairs and Housing is currently consulting on proposed energy conservation options for the Ontario building code, including the use of green technologies and roofs. New regulations must consider all of the potential impacts. Therefore, we strongly believe that it is in the provincial interest to maintain control over all aspects of Ontario's construction standards to ensure consistency across the province. The Ontario Building Code Act should prevail over any municipal bylaw governing or regulating construction standards or policies.

Therefore, we recommend that section 108, authorizing the city of Toronto to pass a bylaw requiring and governing the construction of green roofs, be deleted in its entirety.

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In conclusion OHBA, GTHBA and UDI support a fiscally sustainable city of Toronto to achieve a vibrant, strong, economically competitive provincial capital. However, from the industry's perspective, Bill 53, if enacted as currently drafted, has the potential to block intensification and urban renewal, thus hindering a number of the province's stated key objectives. Bill 53 will cause unnecessary delays and increased costs to an already lengthy and over-regulated process.

In closing, I would like to reiterate that as the engine that drives the provincial economy, the residential construction industry pours billions of dollars into municipal, provincial and federal coffers. It is in the best interest of all Ontarians that the provincial government work with us to ensure that the new housing and renovation industries continue to thrive.

Madam Chair, members of the committee, I would like to thank you for your attention and interest in my presentation and I look forward to hearing any comments or questions you may have.

The Chair: You've left about a minute and a half for each party to ask a question.

Mr. Duguid: Mr. Fiume, thank you very much for joining us here today. Two quick questions, and not a lot of time. You're asking for an exemption for home-builders with regard to being subject to business licensing by the city. Has the city given any indication now or in the past that they're interested in that kind of provision?

Mr. Fiume: I guess when they were asked point blank, they didn't say, "No, we have no interest in doing this." So in an abundance of caution, this does concern us deeply.

Mr. Duguid: They haven't indicated they're interested in it but they haven't said that they're not either, so it's sort of out there.

Mr. Fiume: Yes.

Mr. Duguid: Second, you're concerned about the construction of green roofs. In your deputation, it looked like you were referring to other aspects of the building code as well, but then you focused on the green roofs. I'm aware of the exemption for green roofs, in terms of giving the city some greater authority with regard to the building code on the green roof aspect. I'm not aware of others. Is there anything else in the legislation that you're concerned about that would have Toronto have a different building code standard than anywhere else in the province?

Mr. Fiume: Certainly we would like some clarification. I think there are a couple of different frames of mind there. Listening to the comments of the previous speaker, it was abundantly clear that they would like to proceed with changes to the building code, strictly for the city of Toronto. Apparently, in one person's opinion, the EA for Michael Walker, this is on their minds.

Mr. Duguid: It may be on their mind, but as far as I know it's not in the legislation. We can certainly clarify that for you to set you at ease.

Mr. Fiume: Thank you.

The Chair: Mr. Hardeman.

Mr. Hardeman: Thank you very much for the presentation. As all the other people in the building industry have pointed out to us, the changes being proposed, particularly the one that has been mentioned the most, the land transfer tax, but also the other issue you mentioned, the licensing fee, are going to increase the cost of housing. I think we all recognize that if there's an extra cost, it's going to be a pass-through cost. The government has made it clear that it's a way for the city to raise more money to cover their operating costs.

I found it interesting that when it comes to the warranty program, the licensing process, your industry is saying, "We don't need to do that because we're already governed on that." That's making the assumption that all these other charges are somehow related to services rendered as opposed to a place to find more revenues.

I just point out my concern in the bill. I support a stronger City of Toronto Act in some form, but my concern is that as we talk about which of these extra revenues shouldn't be imposed, the list of those that will or could be imposed keeps getting smaller. I think that for those that the city is not talking about today, when the need arises, there's a risk that they will change their minds. It is very important that you come forward and point these out and that the government listens to that and then puts things in place—not "We will stop them if they do it," but "No, they can't do it to start with," so they would be looking in other places to start with.

I very much appreciate your presentation. I hope everyone is listening and that appropriate amendments can be made to make the bill better for the whole industry. Thank you very much for your presentation.

The Chair: Mr. Tabuns.

Mr. Tabuns: Thank you for your presentation. This bill to some extent is meant to give the city of Toronto options for dealing with the structural financial crisis that it finds itself in. You've made it very clear that you don't like a number of the options that have been presented to the city. Does your organization support the return of those downloaded expenses that the province put on the city of Toronto and other cities to the province of Ontario itself?

Mr. Fiume: As they relate to social programs, absolutely.

Mr. Tabuns: And to transit?

Mr. Fiume: And for transit as well, absolutely, yes.

Mr. Tabuns: Do you see any issues with this bill outside the building code issues, the land transfer tax? Do you have concern about governance etc.?

Mr. Fiume: Certainly there's concern about governance. I don't know that we've had a full-fledged discussion. I think that's pretty much been taken off the table at this point. But I think with increased powers comes increased responsibility. We would welcome that discussion and would love to take part in that discussion. Municipally, politicians are elected every three years. I guess right now the accountability is every three years. I say to you that a lot of damage could be done in three years.

Mr. Tabuns: How would you suggest correcting the problem between elections?

The Chair: You've got 10 seconds to answer that.

Mr. Fiume: Tightening up the legislation and ensuring that the amendments are properly worded is really a good start. I think it's important that the city of Toronto realizes that the intent of the legislation is not as a tax grab but is to fund the stability of the city.

The Chair: Thank you for being here today.

GREATER TORONTO HOTEL ASSOCIATION

The Chair: Our last delegation today is the Greater Toronto Hotel Association, Mr. Rod Seiling. Welcome. We've saved the best for last, I'm sure. Please introduce

yourself and the organization you speak for, and then you'll have 15 minutes.

Mr. Rod Seiling: Good evening, Madam Chair and members of the committee. Thank you. My name is Rod Seiling and I'm president of the Greater Toronto Hotel Association, the voice of Toronto's hotel industry. The Greater Toronto Hotel Association represents over 160 hotels, with approximately 34,000 guestrooms and more than 32,000 full-time jobs. Founded in 1925, the GTHA enables competing hotels to work together on issues of public policy and charitable ventures, provides information and service to its members and advocates to raise their profile and prosperity as a vital component of Toronto's tourism industry.

Bill 53 indeed does provide the city of Toronto with new powers. Undoubtedly you will hear from both sides advocating that it is either too much too soon or, conversely, not enough in terms of the provision of new powers.

The GTHA believes that power, much the same as respect, is to be earned and that while there are aspects of this bill that give us some concern, we would state that with a required component as it relates to the governance issue, it is something that our members can more than likely live with.

Governance: The GTHA's support for any incremental powers for the city has been premised on a stronger and more accountable governance system in place preceding the turnover of any new powers. We strongly believe this is a quid pro quo and that this balance must be functioning, as some of the powers from a city perspective, we suggest, relate directly to revenues.

Toronto's hotel industry, I suggest, is a good case study to examine our assertion. The city's ongoing destructive policies to its business class has been a classic case of governance gone off the rails. For example, the accommodation industry in Toronto is already the highest-taxed business group in the city of Toronto, the province of Ontario, Canada and North America. For much too long, the city has chosen to follow this high-tax policy to the detriment of hoteliers and, for that matter, other businesses across the city. The net cost to the city has been millions of dollars in lost property tax revenues, jobs and new investment.

From the province's standpoint, the losses are not as significant, as some of that lost investment was made in the surrounding 905 area where the property tax per room of about \$1,700 annually versus about \$8,000 in the city literally drove investment decisions.

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Other investors moved their money into foreign jurisdictions where they could earn the returns that are expected in our business. For well over 10 years we did not have a new hotel build of any account in Toronto despite an acknowledged need, nor do we have a five-star hotel, despite this being the home of Four Seasons Hotels.

Only recently have we seen announcements for new hotel builds, and they are being made possible by com-

binning them with a condominium component. Without the condo subsidization, the business case for the hotel disappears. Unfortunately, we still do not see any hope on the horizon for a 800- to 1,000-room convention hotel, which the destination sorely needs. The city's 15-year business tax reduction program acknowledges the problem, but by allowing the city to break Bill 53's hard cap, hotels may never see the reductions that they are being denied by the capping and clawback regimen and will likely see higher taxes.

You, the province, can help in this regard. That comes in the form providing Toronto with the education tax relief it deserves and mandating that it be directed to reducing business taxes so as to bring them in line with the 905 region.

We therefore support the province retaining regulatory powers over the city to impose a governance model on it. Either the model proposed by the Toronto Board of Trade or the city's own review panel would suffice. Our condition is that it must precede the turnover of powers proposed in Bill 53.

We believe that whatever model, the legislation should outline the mayor's financial role and responsibilities, and delineate the city manager's role and responsibilities.

Checks and balances: Checks and balances are key to any successful governance system and we believe are crucial as they relate to Bill 53. First and foremost, of course, is the governance reform itself. We also support the enhanced accountability and transparency provisions contained in Bill 53. We also support the province undertaking regular reviews of the legislation, which should include a public consultation process. We would also suggest additional measures to improve the accountability measures and provide a stronger balance to the new measures. They are as follows:

- broaden the Auditor General's scope to cover all municipal operations and ensure adequate funding;
- ensure that the city's code of conduct applies to civil servants, political staff and members of local boards, not just to councillors;
- ensure that the Integrity Commissioner has broader powers and can hold civil servants, political staff and members of boards to the code of conduct, as well as councillors; and
- stipulate that the positions of integrity commissioner, auditor general and ombudsman are full-time positions.

Finances: Bill 53 does not alleviate the city's ongoing fiscal gap at this point, and we want to congratulate the government. Simply providing the city with more funds does fix what we believe may actually be a spending problem. For example, the city, during the first two years of this council's term, has approved \$700 million in new annual spending. At the same time, it received over \$300 million for 2006 last year from both the provincial and federal governments. At the same time, it refuses to consider alternate service delivery as a way to both improve service and control costs, and seems to be ever so slow on the uptake of zero-based budgeting.

We are supportive of Bill 53's provisions as they relate to the use of tax increment financing and the province's maintaining the power to limit the city's revenue generation powers by regulation. With respect to the latter, we would be remiss not to support Bill 53's specific prohibition on the ability of the city to levy a hotel room tax. This measure recognizes the best-in-practice destination marketing fee that the hotels have instituted and guarantees that the funds are dedicated to destination marketing.

The tourism industry is facing many challenges. Governments are underfunding their share of the marketing function, all while it is coping with the lingering impacts of 9/11, SARS, the rapid appreciation of the dollar, gas pricing, border issues and the soon-to-be-implemented western hemisphere travel initiative.

Our industry struggles to receive its fair due. It is larger than fishing, farming and mining combined, but from a public policy perspective, this fact is sometimes hard to discern. This prohibition says in a very meaningful and tangible way that the interests of the industry and the hundreds of thousands who work in it are important and that the very foundation of the industry, its marketing source of funding, is safe and secure.

We do have some concerns as they relate to taxing powers transferred to the city under Bill 53. They are the taxing powers related to alcohol and entertainment. Both are already taxed, and any additional levies may make the activity and/or event too expensive from a competitive standpoint and/or put the owner either out of business or cut the ROI to such an extent that the business activity is non-competitive. Worse still would be the fallout from a perception that Toronto is too expensive. This statement is not mere supposition, as this province already struggles with this concern because of the high taxes on products vis-à-vis other competing destinations.

We do have additional recommendations that we believe will assist in meeting the objectives of Bill 53. They are as follows:

- outline business property tax rate increase limits;
- require the city to report publicly on efficiencies, effectiveness on program objectives, and results on all services; and
- when fiscally prudent, that the province upload downloaded costs such as social programs.

Powers: As we have indicated earlier, the power transfer contemplated in Bill 53 must be preceded by the implementation in the governance structure of the city. It is the balance for the new system.

We also suggest the following changes:

- reduce the ability to which quasi-judicial and legislative decision-making can be delegated by council to other groups or individuals;
- increase the checks and balances on the proposed new licensing powers; and
- strengthen the planning system prior to allowing a local planning appeals tribunal.

Conclusion: In general, the GTHA is supportive of the general direction in which Bill 53 is taking the relationship between this province, the city and the taxpayers. It is important to remember that, in the end, there is only one taxpayer. In that regard, as the relationship evolves, the respect and the responsibility that the city is looking for is something that must be earned, and it is the responsibility of the province to ensure that those that generate the economic prosperity that all the stakeholders depend and rely upon are better off from Bill 53, not just more highly taxed and regulated.

Thank you very much.

The Chair: You've left about two minutes for each party to ask a question, beginning with Mr. Hardeman.

Mr. Hardeman: Thank you very much for your presentation. I agree that it's great that hotel rooms are exempt from the taxation, recognizing that of course that's because they already have a similar tax but actually being used for the purpose it's collected for, which is to promote the use of the hotel rooms. Do you have any concerns with the fact that the taxes on alcohol and cigarettes and entertainment aren't directed to anything else? In fact, there's no need to account for value at all. It's just a place where the city can tax. I wonder if you'd have any comments on that, whether it would be better if that was directed the same way, recognizing that a lot of money is spent in that area.

Mr. Seiling: Thank you for the question. First of all, the destination marketing fee is a fee; only governments can tax. All the money we collect is turned over for the benefit of the tourism industry. We are only the collection body. It goes to Tourism Toronto. So it's for the industry. It's not for hotel rooms, not for hotel owners.

In regard to the meat of your question, we are hopeful, and the signals we are receiving from the city is that they understand the issue at hand and they won't put something on impunitively and put us at a competitive disadvantage. We're very fortunate that very recently the Minister of Finance reduced some of the taxes on alcohol, which puts us back in a bit of a competitive position, but the returns on the food and beverage industry are in the range of—profit margins for that end of the business are from one half of 1% to 1.5% max. They're very low returns. To put anyone at a competitive disadvantage—the tipping point is so minute, anything can hurt. So obviously we're concerned, but we're very hopeful that the city will show the leadership and maturity that it says that it wants in this area. This will be a good test.

Mr. Hardeman: So you're suggesting that you don't expect the city to levy the alcohol and cigarette taxes?

Mr. Seiling: Well, we're hopeful that the city will take—I wasn't here, but I understand the mayor earlier today made that statement. I don't know whether it was at this committee or outside the room, but as I said, I'm hopeful that they'll look very carefully before they do anything to put the industry at a competitive disadvantage.

The Chair: Can I ask what "ROI" means?

Mr. Seiling: Return on investment.

The Chair: Thank you. Mr. Tabuns?

Mr. Tabuns: I note the question is ongoing with everyone who has appeared here around where the money will come from to make the city operate. I just want to be very clear: Your organization supports the return of social service costs and transit costs to the province from the city so that the city can balance its books. Is that correct?

Mr. Seiling: We've said—and I think the province has acknowledged that when the fiscal room is available, they're prepared to do it. You can't do something you don't have the money for, and everyone is hard-pressed for money. As we said, there's only one taxpayer here, so it's really how you divide the pie. There aren't new revenues from new people, other than the ability to have a competitive environment where you get new investment, and new economic activity will generate the ability to generate new tax revenues.

Mr. Tabuns: Is that a yes or a no?

Mr. Seiling: I think I answered. We've said that when the money's available, we'll support the uploading of those services.

Mr. Duguid: There's something I want to get on the record with Mr. Seiling here. When we were going through a very difficult time after the SARS and probably other market forces as well, Toronto's tourism industry was impacted, and we have not been investing like other jurisdictions have in that area. I want to thank Mr. Seiling and his association for the leadership they've shown in that unique destination marketing fee approach. It's been hugely successful. You'll note that the provision to not allow a hotel tax really runs counter to the permissive approach we've taken in the legislation, but we've done that because we recognize the leadership shown by the industry, and we want to make sure that that leadership—which is not only in Toronto; it stretches outside of Toronto, through the greater Toronto area—can be preserved. I want to thank you for that. I know M. Lalonde has a question.

Mr. Seiling: If I could, I wanted to thank the government formally. As I said, it is best practice, and other jurisdictions across the province are, as you know, using the same model now.

Mr. Lalonde: I have two questions, if time permits. On page 2, the second-last paragraph, you referred to the 905 area, where the property tax per room is about \$1,700 versus \$8,000. What did you refer that to?

Mr. Seiling: What I'm saying is that the tax per room per year on a comparable hotel room in Mississauga, for example, runs about \$1,700. The tax per room on that equivalent hotel room in the city of Toronto, downtown, is about \$8,000. It's a huge disparity. It's a function of a number of things: one is the education tax, but the other is just property tax rates. The city of Toronto tax rates are double and triple what they are in other areas. It's an area that the city is continually hit on. The effective tax rate on hotels in the city of Toronto, partly because of the cap in clawbacks and the tax rate, is 6%, as I said, the highest not only in Ontario but in Canada and North America.

Mr. Lalonde: My second question: I know you're on the commercial side, but would you compare the residential tax rate in Toronto versus the 905 and the city of Ottawa, for example, as about the same level?

Mr. Seiling: No. I think the tax rate on the city of Toronto residences is one of the lowest in the province. I don't have that information with me—I could provide it for you—but it's a function of the fact that residents vote and businesses don't. I referred to destructive tax policies. It's unfortunate that that policy is driving business out of the city. We're hopeful that—as I've said, the 15-year plan that the city passed recognizes it, but it may be locking the barn door after the horse is gone, because the business has already left.

The Chair: Thank you, Mr. Seiling. We appreciate your being here today.

Mr. Seiling: Thank you very much.

The Chair: I'd like to thank all of our witnesses, members and the committee staff for their participation in the hearings. I'd also like to remind subcommittee members that a short meeting to discuss how to accommodate additional witnesses has been requested, following the adjournment of this meeting. Could those members please stay for a few minutes?

This committee now stands adjourned until 4 p.m. on Monday, May 1, 2006.

The committee adjourned at 1824.

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